

**COMMISSIONERS OF POOLESVILLE
MEETING OF OCTOBER 18, 2010**

PRESENT: LINK HOEWING, LORI GRUBER, JIM BROWN, JERRY KLOBUKOWSKI AND EDDIE KUHLMAN. ALSO PRESENT WAS TOWN MANAGER, WADE YOST, TOWN ATTORNEY, JAY GULLO, AND TOWN ENGINEER, JOHN STRONG.

Call To Order

Mr. Kuhlman: Good evening ladies and gentlemen we will call the October 18, 2010 Commissioners Meeting to order. For the record let it reflect that all Commissioners are present as well as Town Manager, Mr. Yost and Town Attorney, Mr. Gullo and Town Engineer, Mr. Strong. First order of business will be the Pledge of Allegiance if you'd please rise, Jerry.

Pledge of Allegiance

All: I pledge allegiance to the flag of the United States of America and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

Public Hearings

Mr. Kuhlman: All right thank you very much for that. Wade you set the thing over here I need to read and I've lost it already, do you have another one over there. All right we will be having three public hearings tonight to start off and unfortunately for you I have to read this into the record. An Ordinance of the Town of Poolesville, Maryland to amend the Poolesville Code, Appendix B, title "Zoning" by amending Section 9(B)(3)(9) to exempt certain commercial signs on weekends from permit requirements and to include a provision for their removal. The Commissioners of Poolesville find that it is the best interests of the Town of Poolesville to modify Section 9(B)(3)(9) of the Poolesville Code, Appendix B to exempt certain commercial signs on weekends from permit requirements to allow for greater economic opportunity for local businesses during these difficult financial times facing our Town, State, and Nation. Pursuant to Section 82.12(65) of the Charter of Poolesville and Article 66B of the Maryland Annotated Code, the Commissioners are empowered to adopt and amend zoning provisions applicable within the town boundaries of the Town of Poolesville. Does anybody wish to testify on Ordinance 181 the Sign Ordinance I have nobody signed up. All right seeing no hands that will conclude this public hearing, the record will be held open until close of business this Friday at 4:00. Our second public hearing will be on Ordinance 182. An Ordinance of the Town of Poolesville, Maryland to amend the Poolesville Code, Appendix B, title "Zoning", by adding a new Section 2.C to address matters relating to conflicts between this zoning chapter and private easements, covenants, and restrictions. Finding pursuant to Section 82.12(65) of the Charter of Poolesville and Article 66B of the Maryland Annotated Code, the Commissioners are empowered to adopt and amend zoning provisions applicable within the boundaries of the Town of Poolesville; The Commissioners of Poolesville find that it is in the best interests of the Town of Poolesville to add Section 2.C to the Poolesville Code, Appendix B to address conflicts that arise between the Town of Poolesville Zoning Code and

private covenants, restrictions and agreements created by deeds or other instruments. We have Jennifer Kasten signed up first and Hilary Shapiro. Oh you want to be on the next one, ok. Anybody seeing no hands we will move on, oh I am sorry go ahead Ms. Barnes.

Ms. Barnes: My name is Linda Barnes I live at 19735 Selby Avenue and I wanted to submit this, this is a Montgomery County Board of Zoning Appeals has changed their form for the application for special exception and they have addressed the issue where if the special exception does not comply with the overrides or however you want to put it the restrictive covenants on the bottom of the application for special exception there is a footnote that says please note approval of a special exception is separate from homeowner association, co-op association and condominium agreements and covenants which may prohibit accessory apartments. Homeowners should be --- their HOA, condominium or co-op documents. The Board of Appeals cannot enforce HOA, condominium, or co-op covenants, which are private contractual agreements. And I think on our application we should have something similar, I mean we don't have HOA's but this is the process of how that, how this came about so I just want to submit that to you, that maybe we would like to consider checking the box at the bottom so the person who seeks the special exception is aware.

Mr. Kuhlman: All right do you have a copy of that you could leave with Wade please.

Ms. Barnes: Yes.

Mr. Kuhlman: Thank you Ma'am. Anybody else? All right seeing no hands we will close public hearing on Ordinance 182 and again the record will be held open until close of business this Friday. Ordinance 183, An Ordinance of the Town of Poolesville, Maryland to amend the Poolesville Code, Appendix B, title "Zoning" by amending Section 3(D) to address matters relating to special exceptions on residentially zoned properties which have shared driveways. Finding pursuant to section 82.12(65) of the Charter of Poolesville and Article 66B of the Maryland Annotated Code, the Commissioners are empowered to adopt and amend zoning provisions applicable within the boundaries of the Town of Poolesville. The Commissioners of Poolesville find that it is in the best interests of the Town of Poolesville to modify Section 3(D) of the Poolesville Code, Appendix B to modify certain matters relating to special exceptions on residentially zoned properties which have shared driveways to protect the interests of all property owners who have an ownership interest in the shared driveway. And we have quite a few people signed up for this one. Joe Renzio I apologize if I mispronounce your name.

Mr. Renzio: Good evening my name is Joe Renzio I live at 19617 Bruner Way. My wife, two children and I have been neighbors of the Mevissen's for the past 5 years since our move to Poolesville. We are also patients of Dr. Mevissen and receive care from her on a regular basis. During our time living next to Dr. Mevissen we have never noticed excessive traffic coming or going to her shared easement. Her family is kind enough to allow us to cross through her property as a shortcut for family walks and trips to the Town Commons. We take advantage of this privilege often considering our 6 and 8 year olds usually struggle near the end of these outings. I have never noticed cars parked in the driveway which in any way would interfere with the neighbors access to the shared driveway or home, in fact I cannot recall

ever having seen cars parked in Dr. Mevissen's driveway. Dr. Mevissen leads a very quiet personal life, during our 5 years sharing a fence line I have only observed her hosting guests on one occasion, the gathering was small and short and although there were several guests no cars were parked along her shared driveway. Her guests presented no obstacles and her neighbors always had free access to his home. My family has been seeing Dr. Mevissen for our eye care for the past 4 years, we do not know how Dr. Mevissen schedules her appointments but I can tell you from our experience we have never seen another patient coming or leaving her office. We have also never seen patients cars parked in her driveway. I personally had been approached to sign petitions to prevent Dr. Mevissen from seeing patients at her home, I can attest the circumstances presented as arguments to sign the petition were misleading at best, as a direct neighbor and patient I have never observed excessive traffic, loud noise, or any volume of people coming or leaving her home which were arguments used as cornerstones for signing the petition. Unless we were told she was seeing patients in her home I am certain we would have never suspected there was a business being operated out of this address. My family moved to Poolesville for a sense of community and safe harbor from the rest of Montgomery County, the longer we live here the more we are convinced we made the right decision, however, for all that Poolesville offers the one thing in short supply is quality professional services, this continues to be the primary reason we are forced to drive to Germantown or Rockville, it is my opinion that in this economy Town and its Council should be doing everything in its power to draw talented services to our community, not drive them away. With school age children it is difficult enough to find the time to run a household, having quality businesses and professional services locally only enriches the quality of life for residents and I would find it hard to imagine that our Town Council would want to drive such high quality professionals out of business and further reduce our options to live and act locally as opposed to going to Frederick or down county. I respectfully ask the Town Council to allow such businesses to continue, thank you.

Mr. Kuhlman: Thank you Sir. Any questions. Robin Mevissen.

Dr. Mevissen: Good evening Commissioners. I am Dr. Robin Mevissen of Poolesville Vision Service. I am a home and business owner on a shared driveway in Poolesville. I think it is best to remove the recently adopted change in language and legislation restricting homeowners of shared driveways with home businesses. As a result of this recent legislation we are here tonight to discuss even more restrictive legislation intended to deny owners of homes with shared driveways the freedom to apply for a special exception. Owners of homes on shared driveways know at the time of purchase that they will share a driveway, indeed it is exhausting to think of controlling and determining the frequency of use and enforcing equality, whether it be the number of cars, home business, or 16 teenage children. I find it is shortsighted to exclude only business as one of the uses of a shared driveway but to allow many other uses that can impact the use of a driveway. I believe home businesses for example, doctors, piano teachers, tutors, CPA's, Architects, all could be a good use with minimal impact, indeed how could we ever define what is the baseline use of a driveway for a family. We should not discriminate against home business use of our homes, home businesses enliven the community, keep money in

the community and provide needed services and connect us to the community. The existing Town Zoning Code prevent changes that negatively impact the residential zone, this includes all residents, shared driveways or not, these restrictions and case by case consideration are sufficient to assure that there is no undue burden to the neighbors. In my experience this was so, I was asked by the Town of Poolesville to apply and was granted a special exception in 2008, it was appealed and reviewed by the Board of Zoning Appeals and the Planning Commission a 2nd time with special consideration given to the fact that I live on a shared driveway. I was required to install a small turnaround space and extra parking so that the impact on my neighbor with the shared driveway would be negligible, this decision was appealed to the Commissioners (inaudible). A contentious neighbor especially those who share a driveway should not be given the power to limit the freedom of another, to badger those entering a residence or to engage in undue process by submitting false or irrelevant data to the Town. I believe the Board of Zoning Appeals and the Town of Poolesville should continue to use the existing zoning laws allowing those businesses that can demonstrate negligible impact to enjoy the freedom that comes with doing business from home, indeed especially as we change to meet the needs of our residents in the future. When home business is becoming more and more a viable option I think we need to consider the benefits of granting permission to home businesses, benefits that also strengthen our families, provide economy of resources and a healthy non-commuting lifestyle. I hope that my home practice providing eye care to the Town of Poolesville will not be excluded from this nor will others who have purchased a home on a stem driveway, it is my Poolesville vision.

Mr. Kuhlman: Thank you Ma'am. Diane Zisman.

Ms. Zisman: Hello my name is Diane Zisman we live on Westerly Avenue we are a 20 year resident of the town, love the town, we try to support local business, we use a photographer in town, we try to buy our groceries in town, we do whatever we can to support the town even though the prices at Selby's may be higher than what we can buy at the Costco. We also are patients of Dr. Mevissen, by daughter, my husband and myself and it --- a lot of convenience for us, I am not aware of any other optician being in Town and being able to go over in the evening I just think it is really important, it is good for the community, we are supposed to be supporting local businesses not making it harder for them. Myself we live on a corner lot and our neighbors know if they have parties and they want to come over and park on our lot go ahead because we want to be a good neighbor, we want to have a good feeling in the Town of not looking over and trying to score points and make complaints about what everybody is doing, it is just the overall consensus of the feeling of the Town, supporting your neighbors, supporting the community, and I support very strongly Dr. Mevissen being able to have a business in her town, we don't have another optician, so even if it means having to walk over to her house and not walk on the driveway, however it can be done, when they bought the house they knew what the driveway was, so I don't really see how she should be punished for this, we are very concerned at not having an optician so thank you.

Mr. Kuhlman: Thank you very much. Dr. Thomas McInnes.

Dr. McInnes: My name is Dr. Tom McInnes, I am the husband of Dr. Robin Mevissen and I live at 19729 Selby Avenue. I certainly share my wife's discussion on the

continuation of our practice and I really wanted to add that even taking the page from the discussion of the election, the upcoming election of the Commissioners that was the other night on promoting and projecting the appropriate attitude for current business and future business in Poolesville and that the language is going to have unforeseen circumstances on some businesses making the decision to come or to be able to have a business in they share a pipe stem driveway. So the other thing that I wanted to do was to read a letter from Dr. Susie Homire who is a Poolesville resident, she is one of the local veterinarians and this is it. Dear Commissioners I am unable to attend this evening but want to voice my position on the proposed changes in zoning language related to home businesses on shared driveways. As I understand it these changes would deny homeowners with shared driveways access to the process that was designed to determine whether a home business should be permitted to operate. A shared driveway and the amount of additional traffic are reasonable factors to consider before granting permission for a home business but adequate protections are already in place to prevent home businesses from adversely affecting neighbors so I see no need to change the current language. The new language says any special exception that increases the number of vehicles using the driveway should be not permitted, that is a pretty vague criteria, increasing the number of vehicles from what, some families have one car and others have 6 or more, some people leave their houses once a week, others go in and out of their driveways 10 times a day, what would the baseline be to determine if there was an increased number of vehicles using the driveway. Denying homeowners access to the due process already established by the Town of Poolesville is unfair and unreasonable, I disagree that this proposal is in the best interest of the Town of Poolesville. The Town would be better served by following the national trend of encouraging the operation of home businesses, more people working from home is generally better for families as well as for minimizing traffic congestion and pollution. Poolesville is a wonderful place to live and part of that is the small town feel with people caring and looking out for each other, more people staying in town during the day rather than commuting to far off businesses and businesses providing products and services locally help us all stay connected as a community and supports our local economy. Poolesville has the processes necessary for making sure home businesses operate responsibly within their neighborhoods and cause minimum distress or burden on other homeowners. The change under consideration is unnecessary and over restrictive please reconsider passing this proposed Ordinance. Thank you, Dr. Susie Homire, a Poolesville resident. And my personal feelings are the same in that we my wife and I just desire very strongly to provide eye care for this Town we are the only 2 doctors in this town as Optometrists and we certainly wish to continue doing what we feel is our calling, thank you.

Mr. Kuhlman: Thank you Sir. Jeff Meyer.

Mr. Meyer: Jeff Meyer, 17304 Hoskinson Road. I am a patient of Dr. Mevissen. I have never had any kind of situation where I drove in there and saw multiple cars. I have always been the only one there, I don't go there that often so I am not impeding any traffic. I don't see the issue with this particular case. I have got a couple questions basically. How many complaints have been received on this issue. If the

answer is only one I would like to counter that with my own objection to this restriction on a business on a shared driveway for Dr. Mevissen. Another one is why restrict the pursuit of a viable business interest in our Town, what does Poolesville Chamber of Commerce have on this issue, what do they think, do they want to restrict the use of a home, a home business in this community or do they want to attract them. How many businesses now exist on shared driveways, I saw at the last meeting that there are 40 driveways that are shared. Have you counted how many are shared driveways or is this the only one. Do you want Poolesville to be known as an anti-business Town scaring away future people, hey it might be the next Apple Computer Company out of somebody's garage, do you want to do that. That is all I have to say.

Mr. Kuhlman: Thank you. Mr. Rudy Gole.

Mr. Gole: My name is Rudy Gole I live at 17104 Oxley Farm Road. I have been to enough Commission Meetings over the years to believe fairly confident that this Ordinance will be approved by you Commissioners no matter what the testimony you hear tonight. So what I would like to know is will you grandfather in those businesses that you previously granted a special exception. I am personally interested and affected by the Optometry business in town, I use their services, I have their glasses, along with my wife, a daughter and a grandchild, besides the professional services we receive it is very convenient for all of us to shop locally which the Chamber of Commerce and you encourage. And it is interesting tonight that you will have another Ordinance that you are going to pass that you say you want to help the businesses with these signs well lets help all the businesses not just the ones with the signs. I respectfully urge you to allow any existing business that you previously approved to continue, it is the fair thing to do and I would hope that you want to do the fair thing thank you.

Mr. Kuhlman: Thank you. Mr. John Volentine.

Mr. Volentine: Good evening John Volentine, 25 Hackett Court. I don't have anything prepared but I just wanted to say that I am actually opposed to this amendment. I am a patient and so is my family a patient of the doctor. I also live on a shared driveway and I have to say as many times as I've been over to the Drs. Office I have been the only car there. There are more cars in my shared driveway than I have ever seen in her place so to me this is probably a targeted thing for on one person and I think it is completely wrong, so I urge you to not vote for this, thank you.

Mr. Kuhlman: Thank you Sir. Diane Volentine.

Ms. Volentine: Diane Volentine, 25 Hackett Court, Poolesville, Maryland. To --- my husband and I agree with everything that he says and I also oppose the position. Our family has a lot of medical needs and we travel out of town up to 5 days a week almost every week, to take this away seems such a burden to so many families not just ours. And I think also that it seems to be we live in a shared driveway and I notice the people who aren't on the shared driveway were always having to maneuver in and out amongst cars of kids and family members and party's and you look at it joyfully and say yay these kids want to be here in Poolesville, they want to be here with their families, this is a community that embraced that kind of culture and I think that this action speaks very loudly to the businesses to say that we are

speaking out of our mouth on one side saying oh yeah pro business in the community but then in our actions we are doing something different so I do oppose this action.

Mr. Kuhlman: Thank you Ma'am. Ms. Ali Meyer.

Ms. Meyer: My name is Ali Meyer and I have been a resident here for 20 some years. We have 6 children and both my husband and one of the children that are still coming back and forth to college go to Dr. Mevissen, what concerns me greatest about this is we are a small community, we are supposed to be loving one another and helping one another and I believe this hearing is totally unfounded and I totally disagree with not allowing Dr. Mevissen to continue her practice. If we support the one person that is against her we are stopping "thank you for shopping local", which I think is a terrible thing to do, because we don't have somebody in this area to check our eyes or anything like that and more than anything Dr. Mevissen is a very good friend of mine and I just feel like we are stopping businesses and entrepreneurs here in the community if we allow this to move forward and botch her not having her practice. Having been a medical professional and most of us have to drive out of town to go to the doctors or do other things other than do grocery shopping and that type of thing especially doctors, if you are working it is nice to be able to go someplace that is just a few blocks away on a Saturday or a Monday through a Friday, I feel as though we need to rethink this and not take away the privileges that this woman has of being an American and living in a small town, we are supposed to have our community aspect in this Town and if we take this away from her what we are doing is allowing one person's grievance to mar the whole community so I really believe I am totally against and I oppose this action.

Mr. Kuhlman: All right thank you Ma'am. Bill Askens.

Mr. Askens: Good evening Bill Askens and I appreciate the opportunity to speak to you briefly. I am a patient of Dr. Mevissen I live in Darnestown not in Poolesville and I appreciate very much the opportunity that is afforded by Dr. Mevissen for me to make an appointment, drive here, arrive at an uncrowded office, go in and have my eyes treated, get my glasses quietly and efficiently and leave, the times I come here there has only been one time when the patient before me was still there, otherwise the way she schedules you just come in as if you are making a personal visit. She has a parking space there that doesn't interfere with anybody, you can turn around you don't have to drive on the grass, its very convenient, it is very professional and it makes it very convenient and I appreciate that opportunity, I hope that you will recognize that that this is a well run business and you will encourage as many of the other people testifying have, encourage that kind of business here in Poolesville and build it up because I think it is to your benefit, thank you very much.

Mr. Kuhlman: Thank you Sir. Burton, Jerusalem Road. I am sorry I can't read the handwriting I apologize.

Ms. Burtea: My name is Anna Burtea from 19321 Jerusalem Road. Forgive me for not having anything prepared. I had just heard about this today and I understand what it is like having a neighbor with a grievance and it can be difficult very much on both sides. My husband on more than one occasion patronized Dr. Mevissen's business and we have been very, very grateful, eyes are something you only get two

of and it is very important, my husbands line of work is very dangerous and he had to use her services, having it very close by to access and I couldn't imagine being at home with my daughter and having to drive him all the way to the emergency room and I think building up our community and having this stuff locally at hand that we like to use and we need to use is beneficial to the business, I just couldn't agree more with everybody who has spoken earlier. Everybody has made a lot of really good points and I would like to put my vote in also for the counter, so thank you so much. Mr. Kuhlman: Thank you Ma'am. Monica Mevissen. We will go to the next one we are waiting for her.

Mr. Baumer: Thank you I am Gerald Baumer I have been a resident and a taxpayer and voter for the past 30 years and I tell you one of the things that attracted me about this town was there are a lot of friendly people. And this incident that has taken place here is almost unbelievable. I support Dr. Mevissen, I go to her for optometry work and I certainly think that her business should continue. But there is a broader issue here one of the key ones, property values, if you could restrict someone's right to do business like that what happens to the people who now live on shared driveways, will someone come into Town and say I'd like to buy a house, say I am a lawyer, or I am a actuary, or I am a consultant, say wait a minute you can't do business in that house because you have a shared driveway, what if someone says I want to have an Avon distributorship and they start it and they don't get a special exception, you can call in the police and have a raid, I mean it gets to the point of being ridiculous with this. Talk about the economic impact last night when we had the Candidates Forum --- the people what is the future what do you see for Poolesville I heard again and again we need economic development and meanwhile this seems to be completely contrary to that, where are you going to get people who want to come into this town to establish a business, to establish a home based business or even work from their homes if they say wait a minute this is ridiculous you can't do it in this town its too provincial, do we need a reputation like that I don't think we do, I think we can do better a lot better and I thank you for your interest.

Mr. Kuhlman: Thank you Sir. They found you huh?

Ms. Mevissen: Good evening my name is Monica Mevissen and I'm the daughter of Dr. Robin Mevissen and also a Real Estate Agent and what I have to say is kind of in connection to what we just heard. I would like to urge you to consider that imposing these restrictions in the legislation would make properties less desirable and to consider that it is not only affecting homeowners who would like to establish a business or those who are looking to buy and hoping to establish a business but also those who might want to sell and this could have an effect not only today but also in the future. Thank you.

Mr. Kuhlman: Thank you. Mr. Stump.

Mr. Stump: Chuck Stump 17719 Dr. Walling Road. Originally when the first draft of this proposal came up to the Commissioners it came from the Planning Commission and there was very explicit wording in there to make this flexible. I believe the exact wording dealt with a material increase. At the Planning Commission we went back and forth over that wording, should it be strict, should there be some more flexibility for quite a while and we came to a very specific intent there. With the

wording that is proposed now there is no flexibility, there is no way the Planning Commission or the Board of Zoning Appeals can deal with an issue of special exception on its own merits on a case-by-case basis, we are completely handcuffed. Now that said I also have a very personal interest in this I live on a shared driveway in Town, in the past I have run a home based business and it would be one that arguably depending on how you interpret it would actually require a special exception and I intend to do so again in the future, if this Ordinance is passed as is I will be put into the position of either being in violation of the law from the get go trying to potentially hide something or trying to have to go well out of our way and change the very nature of my new business to just be a quote home based business, which precludes me from having a business partner, precludes me from having any stock merchandise on hand in my home even if it only took up that much space in my home I would be in violation of the Code. With regards to baselines and driveway usage when I had my home based business in the past I had on average one delivery vehicle a week and usually one business partner would come and visit me per week. On the weekends I have at least an order of magnitude more additional traffic on my driveway just due to my wife's friends, my friends, other personal deliveries, the way things are worded right now a single business partner visiting me, a single delivery would put me in violation of the Ordinance. So I am asking the Commissioners to reconsider the strict wording of the Resolution as it stands now. As it stands now it is depriving me of my personal property usage and also handcuffs the Planning Commission and the BZA so just take a step back and look at loosening the wording so that we can address things in the Town on a case by case basis, each case on its own merits, thank you.

Mr. Kuhlman: Thank you.

Ms. Kasten: Thank you. Jennifer Kasten, 17611 Kohlhoss Road. I don't have much new to add to what has already been said but I did want to say as I expressed last evening in the Candidates Forum I find the language in the proposed Ordinance to be ambiguous, as others have stated this evening an increase in the number of vehicles using a driveway implies a baseline which can be very different for each family and each driveway. In addition to the issue of the language though I also believe we as a Town as many have already said need to support rather than restrict local business and finally I also have the same question as the gentleman earlier as to how current situations will be handled or how they will be grandfathered in. Thank you.

Mr. Kuhlman: Thank you Ma'am. Hilary Shapiro.

Ms. Shapiro: Good evening my name is Hilary Schwab Shapiro. I live at 20009 Hickman Way and I am also President of the Poolesville Area Chamber of Commerce.

Mr. Kuhlman: Are you speaking as a citizen or as the President of the Chamber?

Ms. Shapiro: I am speaking as both.

Mr. Kuhlman: Ok.

Ms. Shapiro: The Board of the Chamber of Commerce, the majority of the Board has a problem with this new Ordinance. We feel that it is anti business, I can't say 100% of the Board agrees but I would say the majority does. A very large percentage of the members of the Poolesville Area Chamber of Commerce are home based

businesses, I don't know the exact percentage that have shared driveways but there are a few businesses and I think that as everybody else has said tonight, the economy is bad and we should be doing everything we possibly can to keep the business that we have in the Town and to try to get new business into Town and I think that the Town has worked in the past very well with the Chamber and with everybody to try to promote the businesses in Town and support what we have and I just think that maybe you haven't thought it through how much anti business this kind of Ordinance would be so the Chamber and I would like you to consider that.

Mr. Kuhlman: Thank you Ma'am. That is all that I have that is signed up is there anybody else that would like to say anything? Mr. Barnes.

Mr. Barnes: My name is Don Barnes, I live at 19735 Selby Avenue. I share the driveway with Dr. Mevissen and have since 1994 or 1995. I thought this was kind of like a general ordinance I didn't think it would get really very specific into one case, one situation. I think that the Ordinance in general it would be helpful to us, to my family, to my property. I think there is a much broader issue at hand and that is putting a business with a retail component in an area that is zoned residential only, I think that is a problem. I think the people should understand that I think that is part of your rationale of addressing the Covenants as well as being separate distinct from Ordinances that the Mevissen's, Mrs. Mevissen signed a agreement with us a covenant and easement agreement that she would not have a business in her residence and she would not use the driveway for commercial use, that is a fact, and we know that we can go enforce that in a court of law and our property value the State Department of Taxation and Tax Assessment has lowered our property assessment by 25%, \$144,000.00 it reduced our taxes because of the business next door, that is an impact, our insurance company has advised us increasing our insurance our liability insurance because of the customers coming out of the driveway. I personally observed over 400 customers driving down our driveway, often there is 3 delivery of UPS trucks a day, excuse me a week on our driveway. It is an impact, Judge Dugan that heard our appeal he said himself he would not buy our house, I think you said you wouldn't even buy our house, I have asked some of my colleagues at work they would not buy our house. I invite some of the customers if they think its such a good idea to have a retail business in a home that they buy our house at current market value, we will sell it to them, I don't think they want a business but like again 66 hours a week, 48 cars a week that come down our driveway, that is a lot of cars. I think certainly there is impact as you all know we put a lot of effort into this issue and I think that signifies there is an impact there is a personal impact, I think the business should be here in Poolesville, I just think it should be in an appropriate location, in the business district of Town where it belongs. A retail component with customers coming every day and when you publish the address its open to anybody that wants to drive by now granted maybe people don't but you see other home based businesses advertised they don't put their addresses in their its just their phone number, I think that is pretty good. And I think home based businesses are good we have many of them in Poolesville but I don't think they are retail in a residential zone and I don't think as far as grandfathering in the special exceptions I don't think Dr. Mevissen has a special exception yet I think it is under appeal and has not been approved yet, so I think if

you do consider things that the business should be moved to the commercial area and use that as an incentive for the Town to come up with a way to help her out in the commercial district. Its doing very well from my perspective business is very well like I said I have casually observed about 400 vehicles, they are doing very well, I think they could afford to move to the commercial district of Town now, that is all I have to say.

Mr. Kuhlman: All right thank you Sir. Anybody else? All right seeing no hands that will conclude the public hearing for this evening. The record will be held open until Friday close of business and I guess while you all are here just a little background on this issue. Home based businesses are allowed in the Town of Poolesville some examples that you all gave tonight were Avon, that is allowed, there are restrictions on that type of home based business, it has to be the owner of the house operating the business, there cannot be anybody that does not live in the home working in the home and you don't even require a special exception for that type of business, I run my real estate company out of my house it is just me, myself, and I, I'm totally legal I am on a private driveway fortunately but when you get into a professional situation where you are going to see patients that triggers the special exception requirement in the Town Zoning Code and ultimately it is the opinion of the Commissioners and if any of you disagree with what I am saying please jump in but it is the ultimate feeling of the Commissioners with the information we have right now and Town Council that the Covenants which we do not recognize because in many of the subdivisions the Covenants are put on the land prior to the houses being built and sold by the developer, they can put on anything they want, so we do not and most municipalities do not recognize the private Covenants, a lot of time they contradict with the zoning laws but it is our legal opinion no matter what we do here eventually the neighbors could take the doctors to court, sue them under the Covenants and win and the doctors be closed down, because the Covenants are pretty clear, it says used exclusively for residential use, that kind of makes it like businesses aren't allowed. The Town does not have the authority to exercise or try to enforce those covenants, it has to be a property owner in that subdivision somebody that has standing in that subdivision. Hopefully that clears up a little bit of your thoughts, we will hold the record open until the close of business Friday and any of the other Commissioners have anything they would like to say before this goes on, Mr. Attorney? Come up front please so everybody can here you.

Speaker: I have gotten --- in politics in general elections and stuff but I would like to ask two questions. One would be if the shoe were on the other foot and it was reversed and this gentleman was upset with I mean if Dr. Mevissen was upset with this gentleman Mr. Barnes, how would she feel and the other thing is can we just I know a lot of businesses in town like hair dressers and that type thing I have a small business in my home are we going to eventually somebody that wants to complain about us or as you were explaining to us just now are they going to come into this Town and override what you all say and make us stop our businesses in our homes. You know there are a lot of daycares around here and there are a lot of cars around those houses, I have never been to Dr. Mevissens even when I go to see her as a friend and we are just having coffee together have I ever seen more than one car in the driveway and that is her car, and I just can't believe that people are mean

enough to carry something this far and that we can't settle things face to face and handshake it. I mean have we grown that big and that stupid that we can't be friends with one another and allow a person to have a business in their own home, especially a professional business; and number two, you don't know how much time it saves people from driving to and from Germantown or Gaithersburg to get your eyes check and get professional care that is really excellent and if you have a problem you don't have to go to Shady Grove Hospital you can go over there and she will see you if you have gotten something in your eye or if you have lost your contacts or whatever and she is nice enough to see you and you don't have that out of this town and that is what I raised my children with and all of this being shot out because of one person having a grievance against it, I know that our driveway has had 10 cars in it with 6 children and nobody ever complained about it, my husband used to bring his trucks home and he came up and asked you all if that was ok because it was his Robert's Home Medical truck and that was satisfied. The thing about it is what are we doing we are pushing people out, we are not bringing people in, we are not extending our arms and say come on in to Poolesville and we are going to collapse because of that, things are going to get harder, times aren't going to get easier right now.

Mr. Kuhlman: I understand. For the audience it is knowledge, I mean the Town operates on a complaint generated business, we do not operate on a Gestapo basis, Wade or Town Staff do not ride around town looking for infractions and try to enforce them, but we have been faced with over 20 some complaints about this situation, we are trying to find...

Speaker: From who?

Mr. Kuhlman: From the neighbor.

Speaker: From Mr. Barnes?

Mr. Kuhlman: Yes.

Speaker: Ok so one person.

Mr. Kuhlman: Yes Ma'am. We are trying to find a way to deal with it. I don't think there is a Commissioner sitting up here that was overwhelmed or overjoyed with this Ordinance but it was something we decided to put out and hear what the public had to say, contrary to Mr. Gole's statement I don't know whether this is going to get adopted or not. We have heard a lot of input tonight we need to have a lot of discussions on it, discussions with our town attorney. The Commissioners support and are strong supporters of the business community, I especially, I give people in my church hell if they don't shop at Selby's I don't like seeing them run down the County to another grocery store, I am very strong in that opinion I am sorry I am, this is a very, very hard issue to try to figure out and there is a lot of legal ramifications and loopholes in this thing and I don't think there is any one Commissioner that is happy with this Ordinance or being here but we are looking at options and how to cure the problem to the best of all the citizens.

Speaker: I just can't see how one person can make such a fuss that once the decision is going to be made its going to affect all of us because of that one person.

Mr. Kuhlman: Yes Ma'am that is very true.

Speaker: And so we are playing into the hands of that one person which is very sad and I know you don't have an easy job but I hope that things come out better than I expect.

Mr. Kuhlman: All right I opened Pandora's box go ahead. I need your name and address for the record please.

Ms. Clutter: My name is Jennifer Clutter I live at 17623 Kohlhoss Road.

Mr. Kuhlman: Thank you Ma'am.

Ms. Clutter: I was told to come here tonight because I came here today to talk to the lady at the desk about the skatepark. My nephew is 6 years old and he was trying to ride a skateboard yesterday and there is nothing but teenagers there and they are riding their bikes...

Mr. Kuhlman: I'm sorry hold up is this a skatepark issue?

Ms. Clutter: Yes.

Mr. Kuhlman: There will be time for you at a later point if you don't mind in the meeting. I need to finish this up.

Mr. Hoewing: We do have an open forum you will be able to talk.

Mr. Kuhlman: Give me about 5 or 10 minutes and you can come back up if you would. I need to finish this up and move on thank you. Yes Sir.

Mr. Renzio: Joe Renzio 19617 Bruner Way. It should be noted that all though there is a retail component to this business the retail component is only in support of diagnosis the doctor makes. She is not --- out of her house.

Mr. Kuhlman: I understand that. Anybody else with a minor comment? Seeing no hands we will close the public hearing, the record will be held open until this Friday close of business at 4:00 here in Town Hall.

Announcements

Mr. Kuhlman: Under announcements the Commissioners did meet in executive session on October 4 at the conclusion of the regular meeting, present were all 5 Commissioners as well as the Town Manager, Wade Yost and applicant Jan Schultz who is seeking appointment to the CEDC. Is there any other announcements?

Mr. Klobukowski: Yes you may have heard that the Montgomery County Public School Superintendent has issued a finding that due to the additional construction in Poolesville, which was not accounted for previously when he made his initial decision to close Monocacy, that he anticipates the increase of student population that because of that "Monocacy will remain open for the foreseeable future" however he neither endorsed option zero, which is recognizing our cluster and its schools unique settings, i.e. the Ag Reserve when compared with other county clustered schools, nor would he permit transfers into Monocacy Elementary School from the outside clusters, the only transfers that would be allowed would be from within Poolesville so now we have to bring our case before the Board of Education. Churchill said once that during I think it was the D-Day Invasion that this is not the beginning, this is not the end, but it is the beginning of the end, well we are beginning again in this thing, we need to continue our efforts because restrictions placed on transfers into the cluster and the Superintendents misconception that Poolesville is somehow not part of the Agricultural Reserve is misguided. It is like saying that because Hawaii is one of the United States is not in the Pacific Ocean maybe he thinks Poolesville is a floating city like in the Star Wars movie the Empire

Strikes Back, regardless we are here where many skeptics never believed we would be. We are not gloating but we are resolved to see this through to a more positive end and at this time I would like to thank all of the round table members from within our cluster and those other clusters Clarksburg, Quince Orchard, and North West who sacrificed their time including valuable family time to participate in the meetings, presented their thoughts, developed and fleshed out various options and helped this process come to a successful conclusion, again thank you all.

Mr. Kuhlman: All right any further announcements?

Mr. Klobukowski: Yes the County Board of Education will be taking testimony on the FY2012 Capital Improvement Budget on the 10th and 11th of November, sign up is on the 20th and 21st of October for those days. And I have circulated my testimony which will be joyfully revised deleting the request to keep Monocacy open, however we will be stressing the need for a new county high school, those of you who don't know there was an effort this past spring concerning revising the FACT score "Facilities Assessment with Criteria Testing" which is the methodology for assessing when schools are to be modernized. Poolesville is not among those that are going to be reassessed and if you look at the current Appendix C modernization schedule for assessed schools Poolesville is TBD, the school was constructed in 1953 and there are other schools that were constructed in 1970, 74, 54, 69 and 56 and a couple of them had renovations in 1977, 78, and 83 and we are not there yet, so we have a little ways to go and I think one of the things that Monocacy Elementary School keeping it open proved that we are not parochial we are a community and I have never been prouder of being a member of the Poolesville Community and the Western Montgomery County Community, I think you all should be very appreciative of those people who came out and went to Round Tables, wrote letters to the Board of Ed and MCPS members to support keeping Monocacy open and now we need to go ahead and move on and get a new high school, thank you.

Mr. Kuhlman: All right any further announcements? Hearing none as I said we had an Executive Session at the last meeting. Is there a motion to appoint Jan Schultz to the CEDC?

Mr. Klobukowski: So moved.

Mr. Kuhlman: Is there a second?

Ms. Gruber: Second.

Mr. Kuhlman: And what is the term?

Mr. Yost: Two year term.

Mr. Kuhlman: All right. All those in favor?

All: Aye.

Mr. Kuhlman: Motion carries unanimously.

Approval of Minutes

Mr. Kuhlman: I need a motion for approval of the minutes for October 4, 2010 as well as the Executive Session minutes.

Mr. Hoewing: I so move.

Mr. Kuhlman: Is there a second?

Mr. Klobukowski: Second.

Mr. Kuhlman: All right thank you. All in favor?

All: Aye.

Open Forum – Charter Revision Questions

Mr. Kuhlman: All right is there anybody here that has any discussion on the Charter Revision questions? Mr. Potemra's hand was up first.

Mr. Potemra: Conrad Potemra Spurrier Avenue. I didn't write anything up here so I hope I don't ramble on. I am concerned about the Charter Amendment on a couple issues. One the Commissioners are saying you should vote for it instead of just putting out the facts and I have got some concern on that, my lawyers say that the words wrong and the Commissioners say oh I pledge to change it, its kind of like there is never time to do it right but there is always time to do it over and I am really concerned that we are trying to lump a bunch of things together instead of looking at these individually and taking care of them, I think we probably ought to start over and also I really hope you don't get to be like the old Bulletin where you are putting your political opinions right on the front of your local newsletter, where there is no redress by any of the citizenry on that. Putting out the facts is one thing, which Straight Talk was originally designed to do, but then saying Vote Yes is clearly a bias that probably isn't fair to both sides.

Mr. Kuhlman: Very true and we apologize for that.

Mr. Potemra: I can hardly wait to see the one that comes out before the election claiming that apology.

Mr. Kuhlman: Ok. Mr. Gole.

Mr. Gole: Rudy Gole Oxley Farm Road. You have had your opportunity to encourage a yes vote on amendments through the Town newsletter so I want to tell you why I am going to vote no to the Charter Amendments. You all no doubt have heard and read about the town of Bell, California, that town is 2005 created itself as a charter operated town, Poolesville is already such a charter town whereby the Commissioners prepare and approve the budget which includes salaries. The Town of Bell being a Charter City, which governs itself allows the town Commissioners to create and approve its salaries up to \$800,000.00 a year, those enormous salaries trickle down to staff members and others. We don't need that possibility to be available here in Poolesville. So although I agree with most if not all of the other amendments I am going to vote no on the ballet because of the Commissioners arbitrary salary provision which could have a profound effect on the Town tax rate in the future thank you.

Open Forum & Citizen's Comments on Agenda Items

Mr. Kuhlman: All right anybody else? All right seeing no hands we will move on to Open Forum and Citizen's Comments on Agenda Items. Open forum first the young lady, I promised her Conrad. Thank you for your --- Ma'am.

Ms. Clutter: My name is Jennifer Clutter I live at 17623 Kohlhoss Road. So I am here to complain about the skatepark. There are teenagers riding their bikes and my nephew likes to skateboard, he is 6, they ran him off yesterday off of his skateboard and they are not supposed to ride their bikes in there but they are a little bit mouthy and I told them yesterday when I was there that they weren't supposed to have their bikes in there that they needed to leave so you know how teenagers are and so I was nice but today when I went there they were there again and I said look you guys are not supposed to be in here with your bikes but if you are going to be in here with your bikes don't run into my nephew. I said the kids need a skateboard, they can't

skateboard there is trash all over the place and the parents are picking it up, they are cussing, it is basically taken over by the teenagers I mean none of the younger kids can do anything because these teenagers are taking over and every skatepark that I have been to with my son and my nephew there are people that work there and you have to sign a waiver. I think that somebody should be there all the time because it is a disaster and somebody is really going to get hurt one of these days. I mean I told the teenagers today to get out and they were still mouthy so I was told to come here. I mean I would be willing to go there, you guys can pay me and I will tell them to get out.

Mr. Brown: You say you came in Town Hall today and registered your complaint about it.

Ms. Clutter: No I just talked to the lady at the desk.

Mr. Brown: That still counts.

Ms. Clutter: And she told me to come here.

Mr. Brown: Thank you for making your complaint known and we appreciate that and there are several of us that have active roles in making sure the skatepark is used properly and your testimony will be considered.

Ms. Clutter: Ok.

Mr. Klobukowski: We all have a responsibility to ensure that the skatepark is operating correctly and people show their respect for each other.

Ms. Clutter: And they are not.

Mr. Klobukowski: And respect for what the Town has provided as well and I know Jim went a long way on opening day to mention that that it is theirs to embrace it and take care of it and show respect for each other.

Ms. Clutter: But they don't care.

Mr. Brown: What time, you were there today, what time was that today?

Ms. Clutter: I would say around 4.

Mr. Brown: 4:00 in the afternoon ok.

Mr. Klobukowski: They ran into your 6 year old, they didn't run him off and make him leave, they ran into him.

Ms. Clutter: Yeah and he went sliding and two of them actually did it, two of the boys.

Mr. Klobukowski: Thank you.

Mr. Kuhlman: Thank you Ma'am. Along that line as Conrad is coming up I did receive 2 phone calls this weekend also complaints on the skatepark where young kids have went up there to skate and the older kids told them they weren't allowed to be in there that it was their park and they forced the little kids to leave supposedly. So while you are looking at that look into that one too. Mr. Potemra yes what words of wisdom do you have for us.

Mr. Potemra: Well I am confused again because I guess I am not as smart as you guys, I saw somewhere that you want to give \$200,000.00 of the Town taxpayer money for townhouses and I guess some grief that comes in and the confusion I have is why we want to build, why we want to give our money, I don't mind them building the townhouses, why do we want to give our money when we have got plenty of townhouses around here that could be used for the exact same purpose without taking any of the town money. I mean you are kind of shortchanging I

believe very shortchanging the current homeowner, townhouse owners, and investors that are buying townhomes and are renting them that theirs should be first on the list for doing this low income housing at much lower prices. When I first ran the calculations it seemed to me that it would save, they could buy existing townhouses and save their program \$144,000.00, so it seems like it was a cost savings on top of everything else plus it doesn't take the \$200,000.00 of town money that you want to give them so I am very much against it.

Mr. Klobukowski: Is the Western Montgomery County Bulletin back in service and we don't know.

Mr. Potemra: It makes it --- since Stan is gone, you know he has got a role to fill. It is no different than you saying yes on your thing about your political statement and then not putting a retraction up in public. I understand there is \$200,000.00 of impact fees that could be given...

Mr. Hoewing: Actually almost the opposite happened because when they came in they did not have the impact fees included, we asked them to include it in the project and we have not approved the project they are coming back tonight to talk about that issue but we did tell them to put it back in the project now we haven't approved it yet so it could be that there is still a discussion on that but that is what we did, they came without the impact fees in the proposal we asked them to put it back in.

Mr. Potemra: Ok so what is the chances I don't want the \$200,000.00 in this particular case we have lots of townhouses that could fulfill the needs of that program at a lower cost.

Mr. Hoewing: Yeah but they are privately owned so they have to somehow convince them to sell them to them, that is the problem.

Mr. Potemra: You don't think there is enough townhouses on the market...

Mr. Hoewing: I don't know. They are the ones that know that I don't.

Mr. Potemra: How many realtors we got here that would say Link is even close to right.

Mr. Kuhlman: All right did you have a question for them Jerry?

Mr. Klobukowski: No it's just amazing.

Mr. Kuhlman: Anybody else with any questions in general? Yes Mr. Roit.

Mr. Roit: Bob Roit, 17301 Dowden Way. Conrad stole my thunder but I do have some concerns. Earlier this evening you talked about the hard economic times that are out there, in the past year the county and the state held back money we have got a coming year we don't know what we are going to get from the county, what we are going to get from the state and I don't think it behooves the Commissioners to offer up the impact fee monies in lieu of anything and I would ask you to not waive the impact fees and to require the Habitat for Humanity to include them in the price of their houses.

Mr. Hoewing: What you have asked for is a good way to approach it Bob and Conrad can do that too sometimes but he didn't tonight, when you come in and accuse somebody of doing something and it is not true you have a hard time making them want to listen to you. When you come in and say you did this, I said no I didn't, I don't want to listen to that.

Mr. Roit: Well I am just concerned in this present financial situation that we are all living in that the Town can ill afford to waive the impact fees to the detriment to the rest of the citizens.

Mr. Hoewing: Conrad's other idea might be an interesting one to pursue but because he started off accusing us of something it is hard to listen to it and it is an interesting idea but why am I going to listen to him accusing me of something I didn't do.

Mr. Kuhlman: Thank you Mr. Roit. Anybody else have anything in general. All right seeing no hands any comments on the agenda items. We will be having a discussion tonight with Habitat for Humanity any conversation there, yes Ma'am.

Ms. Meyer: With all the townhouses and homes around in the area and are we going to be putting money out as taxpayers in this community for Habitat for Humanity and I forget how many numbers are going to be for \$214,000.00 and \$295,000.00. We have seen these projects before in other communities and they didn't work, where they had a low income person and a high income person, the low income person and the high income because you certainly don't expect a low income person to pay \$295,000.00 at least that is what was in the paper that I saw.

Mr. Kuhlman: Well where we are at is Habitat for Humanity came to our last Commissioners Meeting and gave us a very nice PowerPoint presentation on what they would like to do and a discussion ensued about what they had in their financial numbers up on the screen and they have come back and we are going to have more discussion on it tonight. I believe one of the requests that they may have of us tonight will be to ease the cost that hasn't been discussed yet, so we will find out hopefully in about 5 or 10 minutes what the request is and the Commissioners can take it up at that point.

Ms. Meyer: And then will it come back to the community to make that decision whether to support it or not, or not?

Mr. Kuhlman: No it will be made here by the Commissioners.

Ms. Meyer: So we are looking at what kind of figure?

Mr. Kuhlman: I don't know, we haven't had the conversation with them yet.

Ms. Meyer: Well I am a little concerned about having because I have seen it in Tobytown and Potomac when I was a girl they expected Tobytown to make a real big difference to low income families and it has never made a difference, and I have seen other areas throughout the United States who have done this where they have had homes that are lower priced and then or a townhouse I should say that are higher price in hopes that the lower income people will bring themselves up I don't think in this type of economy we are going to have that good of a and I know I certainly wouldn't pay \$295,000.00 for a townhome that somebody next door to me is paying \$214,000.00.

Mr. Kuhlman: \$216,000.00.

Ms. Meyer: Ok \$216,000.00 sorry.

Mr. Kuhlman: If you would give us a few minutes Ali lets have the conversation with them and we will give anybody that wants to say something after that presentation an opportunity. All right we will be looking at and maybe making a decision on the amended fee schedule, does anybody have any comments there? And at the last meeting we had a screw up of understanding Rebuilding Together Montgomery

County has a Resolution in front of us that they would like us to agree to and adopt and it is just basically supporting the and we will get to that in time but it is basically supporting their work throughout the County any comments there?

Old Business

Mr. Kuhlman: All right seeing none we will go back to the agenda and it will be Habitat for Humanity, John if you would like to take the table please Sir.

Mr. Paukstis: Good evening my name is John Paukstis I am the Executive Director for Habitat for Humanity Montgomery County.

Mr. Kuhlman: Thank you.

Mr. Paukstis: As you all are aware I was here the last meeting to present our program for building low income housing in the community. We have a sales contract for 17 lots on Fisher Avenue as you enter town and we are in our review period now so we came to introduce ourselves and explain our program of affordable mixed income housing in the community. We put a budget together, we are a 501C3 non-profit so the budget has no profit in it and we sell these homes at zero interest, a 30 year mortgage with zero interest so it is true that we would sell 8 at \$216,000.00, 9 at \$295,000.00 and families have to qualify for our program and we come into town not bringing folks from other areas that is important to know, we hope we can serve the residents who live or work in Poolesville who maybe work in Poolesville but can't afford to live here. So although a \$295,000.00 mortgage sounds like a lot at zero interest it is a pretty good deal with 1% down and we require a sweat equity and it is a partnership program we provide education workshops and so on. Since we have been in business since 1982 in Montgomery County we have only had one foreclosure and all the other homes that we've built all have the original owners so we are very careful about who we select and we put into these homes.

Mr. Hoewing: How many homes is that totaling?

Mr. Paukstis: 56 and they have been a combination of townhouses and single family houses around the county. The misunderstanding was I thought we were excluded from impact fees because when we build on county land we are excluded, I didn't realize the City of Poolesville had their own set of impact fees, I am clear on that now, we did put it in our budget and I can tell you the exact number, I think it is \$10,951.00 of impact fees per unit.

Mr. Kuhlman: Yes Sir.

Mr. Paukstis: That calculates out to be \$186,167.00 but then 14% of that goes to park fee, so that is another \$26,000.00, so if you add that up its \$212,000.00 so that is not something we anticipated, does it not sound right to you...

Mr. Klobukowski: No you are saying there is just the impact fee out of that a percentage of that goes to parks and another percentage goes to...

Mr. Yost: There is a park fee in lieu also.

Mr. Paukstis: The seller has agreed to pay the fee in lieu of forest conservation.

Mr. Kuhlman: Oh they did?

Mr. Paukstis: Yeah they did so that is about \$4100.00.

Mr. Kuhlman: \$4,461.00.

Mr. Paukstis: Ok whatever that is they agreed to pay that. What we would be responsible for is the impact fees and for the park fee and that is how I get to

\$212,000.00. So my appeal here today is that whatever the sitting Commissioners decide we will live with I mean we would hope to get some relief because my budget is very tight and everything we do we do with fundraising in the community, we get a lot of support from faith groups, from businesses and from individuals to do our work but we don't have an income stream so every project we build we have to fundraise for to make it work. So we hope that we can go forward here in Poolesville we think this is a good project for the citizens of Poolesville and for people who work here but may not be able to afford to live here, but if you decide that you can't give us any relief than my job is to go back to our Board of Directors and see if they will approve the project with the additional costs. We have Board meetings every other month so that would be my next step.

Mr. Kuhlman: When would you anticipate shoveling the dirt?

Mr. Paukstis: Well we are scheduled to settle on the property if we get through this review period we are scheduled to settle December 15, that is the tentative settlement date, we would then right after the first of the year probably start preparing the dirt, the pre construction work grading and so on and I think by spring weather permitting we would start construction and we would probably we are working on a construction schedule right now but it would probably be 12 months, we would complete it in 12 months.

Mr. Kuhlman: So are you just making a casual statement you want generosity or do you have something in mind that you are asking for?

Mr. Paukstis: What I am asking for is a waiver of the fees or some consideration, if you can't waive them all maybe partial. I mean I understand you work with a budget and you have challenges.

Mr. Kuhlman: All right anybody?

Mr. Klobukowski: Well my feeling is I am not about to waive the fees. A constructive way of coming to meet somewhere in the middle where maybe half the fee would be paid down immediately and then the rest would be paid with simple interest over the years at the end of the sale of the house, something like that possibly, I don't know what the other Commissioners have in mind with respect to some sort of balance we could come to, but to waive \$212,000.00 worth of fees I am sorry I can't I just cannot do that. Did I mention that we were at a Montgomery County Chapter Maryland Municipal League and the county said they are really looking at how they can save money, they didn't come out and say that they were going to take all the money that they could get like Project Open Space and the state we already know is looking at 1.5 billion dollar deficit next year and so I just can't in good conscious just waive \$212,000.00 there is no way.

Mr. Hoewing: Were you suggesting Jerry to put a --- on each house when they sold it?

Mr. Klobukowski: Well basically I don't know maybe our lawyer has probably seen some other creative way of doing it but basically either have a step and pay so much over the years but whatever is outstanding just like the loan you get to pay interest on and the other thing would be to pay 50% upon closing or whatever and the other 50% plus interest would be paid when the house is sold but that would have to be recorded in the deed and Eddie or Jim would know more about that. But there is different ways of slicing this apple that might benefit everybody and I think also

whatever we come up with I think the public our public ought to be allowed to weigh in on it because again this is their money we are dealing with this isn't our money this is their money so I am very, very hesitant to do anything that would not at least come out where we would come out with a zero sum gain and in that we would lose nothing.

Mr. Kuhlman: All right. Jim your thoughts?

Mr. Brown: Just real quick I am not in favor of paying for the impact fees or the Town paying for it, I have already had a lot of input from the residents but I can tell you this, there has been a lot of resident support for the organization and I think that through the proper management of the process that even though we are not going to obligate our taxpayers money towards it at least in my opinion I can promise you this that we can probably make it up in town sweat equity and that those dollars can be transformed into people willing to help and we will place a premium on Poolesville is a caring town, Poolesville is a town where people are willing to reach out to other people and help when necessary. To have a group like yours want to plant a seed in our community to potentially help people that are inside our community as well, I think we have a great caring group that lives here and I think that we can't give in my opinion give \$200,000.00 but I'd make you a bet that we'll find enough people that will contribute that much in sweat equity and more beyond the people that will be benefitting from the project.

Mr. Kuhlman: Lori?

Ms. Gruber: I'm of the same mind. I really don't think that we can afford to put that up, we have heard our Town's reaction to putting that money out.

Mr. Kuhlman: Link?

Mr. Hoewing: So your board meeting is next month?

Mr. Paukstis: Next board meeting is November 30. I will have two executive committees before that, I will present it to the executive committee.

Mr. Hoewing: So in your opinion is it our obligation tonight to tell them what our initial feeling is.

Mr. Kuhlman: No lets just have some discussion what the feelings are.

Mr. Hoewing: Well I worked for Rebuilding Montgomery for a long time, in fact my dad and I ran it for 7 years so I am very sympathetic to these kinds of programs and what I know about Habitat for Humanity which I didn't know that much until you came and I started reading about it and I am very impressed with. So despite some of the discussions we have had tonight I think it is a well managed program generally speaking so I would like to see it come to Poolesville and the plans you presented I thought were it was a well designed townhouse it looked nice I know there were some Planning Commission members that had concerns but I think the houses looked nice so I want to see it go forward if possible. On the other hand in our Town \$200,000.00 unlike Montgomery County is a lot of our budget and it is not an annual thing I realize that impact fees go for future programs but it still is an important part of the budget so it is very difficult for me to see how we can actually waive it, so right now my feeling is I don't think we can.

Mr. Kuhlman: All right. Well John called me on Friday and we had a conversation about this and I told him what my feelings were and you all have kind of echoed it that I don't see any way we can waive the entire fee. The impact fee was put in to

recoup the dollars the town has spent to put the infrastructure in place to allow these homes to move forward and it wouldn't be prudent or fiduciary responsible in my opinion if we waived the entire fee, but looking at this thing I had one suggestion I was going to make. Jerry no disrespect I don't like your idea at all, we deal with it or we don't, currently the impact fee this year for the 2011 budget year is \$10,951.00 per unit and as John stated that comes out to \$186,167.00 and then we have just slightly above \$26,000.00 in lieu of park fee and for the people in the audience that is there is not enough property on this site to have any park amenities there that really matter so the Town has a calculation where we extract money from the developer and we use that money someplace else in Town to help enhance a park, replace worn out equipment, so forth and so on. Now like Jim I have heard from a lot of people on this, I've given a lot of thought and for certain reasons I would like to make throw out an idea. In our Master Plan under housing needs there is a sentence in there "Future planning actions such as water and sewer allocations should recognize these features and development proposals whenever possible and should promote the continued availability of a mix of affordable housing types, which is a hallmark of Poolesville today", I look at the real estate market and I know very well because I am very good friends with the owners of the property that they have put this property in front of no less than 7 builders and nobody bid on it, I put it in front of 2 builders and nobody was interested in it, not being negative but the corner right now is not very appealing in aesthetics, we derive very little income property tax income off of it, if we can work something out with Habitat we will see the corner cleaned up and made better looking, we will be done with townhouses in town because this is the last piece of property zoned for townhouses and we will start collecting property taxes once they are sold. What I would like to throw out for consideration I don't like the idea of putting off and waiting, I think you get into a real legal quagmire trying to collect later, one suggestion I would say is we charge \$10,000.00 a unit on the impact fee and we give a time period of maybe 3 years and if they have not completed all the units within the 3 years whatever units are left go to the market rate of the impact fee for that year and we also waive the \$26,000.00 park fee that would give Habitat about a 19% savings I think in my personal opinion it doesn't jeopardize our tax dollars, it doesn't really impact where we are financially but it does lend a helping hand and I know for a fact that all 3 of my children and other children in this town have always said I don't want to live with mommy and daddy anymore but I'd like to have a place in town but I can't afford anyplace, this would be 17 units because of the no interest that makes a big difference in your buying ability where people might have an alternative to look at things. I don't know whether a 19% reduction in the fees would help them to go forward or not but I think it shows a step in the right direction on the town's part without jeopardizing our financial situation and that is my thought.

Mr. Brown: Eddie can you summarize what the amount of give back is at that rate?

Mr. Kuhlman: Yeah I had it here someplace Jim.

Ms. Gruber: \$42,000.00

Mr. Brown: Well and he said waive the park fees.

Mr. Klobukowski: You are going to get...

Mr. Kuhlman: You would get \$170,000.00 off the impact fees if they got them done within 3 years so you would get that instead of the \$186,000.00 so there is \$16,167.00 difference, \$16,167.00 we would be shortchanging ourselves and then the \$26,000.00.

Mr. Hoewing: \$42,000.00.

Mr. Kuhlman: Yeah there it is \$42,167.00 total.

Mr. Hoewing: So those park fees in lieu of would normally go into a fund to be used to support other parks in the Town and you are taking off \$950.00 per house approximately for the impact fees is what you are doing.

Mr. Kuhlman: Basically \$10,000.00 that was the fee when we first put in the impact fee and that is just my thought, as I told John on the phone when he called me I told him I was only speaking for myself but there was no way I could ever in good conscious waive the entire fee, we have waived the entire impact fee four times in Town. We waived it for the expansion twice at St. Peters, we waived it for the Catholic Church, we waived it for the Middle School and we waived it for the science addition to the High School and as far as I am concerned the waiving of the schools benefitted everybody in this community whether they had children or not because we are a better and stronger community because of having the three schools in Town and we had a lot of indication from the Council that those impact fees might have put off the construction of these school projects for a couple years if not maybe had killed them, the church work that we did the waiving of the fees for the church ironically represented the two largest parishioner basis of churches in town and therefore if affected a lot of people in town and I saw that we made a prudent and wise decision in my opinion back then, but to sit here and do it now for this project I can't do it because that really equates to we are asking each homeowner in town to write a check for \$113.00 basically and contribute it, I can't in good faith do that so in an effort of trying to find some hand out in greeting them I make that proposal that we back the impact fee down to \$10,000.00 per unit, we give them 2 or 3 years because the impact fee is paid as they pull building permit for the unit, so if they get all the units built within say 3 years it will be \$10,000.00 per unit, if they are not done in 3 years than the remaining units go at market rate on impact fee and we waive the \$26,000.00 that is my proposal for you all to debate.

Mr. Brown: Regarding impact fees my opinion is unchanged.

Mr. Kuhlman: Huh?

Mr. Brown: Regarding the impact fees my position is unchanged I don't think it is fair but I do say that in terms of the fee in lieu for the parks I mean if the people that live in the townhouses refuse to go to the parks I am ok with not doing that then, they can just sign and say they are not going to use them.

Mr. Hoewing: So you are not approving of that either.

Mr. Brown: I am open for more discussion on it. I think it is a generous offer Eddie I'm not in favor of the Town's taxpayer money and other people that have already paid the impact fee having to contribute in any way towards the reduction of the impact fee, the people at least the people I have spoken to have spoken to me and opinions were very strong in that way but I could I would be interested to see what my fellow board members have to say about the park fee.

Mr. Kuhlman: Link?

Mr. Hoewing: It is hard for me to see how this is going to make that much difference frankly I mean essentially you are saving \$42,000.00 out of \$212,000.00 fee, I can't believe it makes that big a difference.

Mr. Paukstis: Every dollar makes a difference.

Mr. Hoewing: I am sure it does.

Mr. Paukstis: When you are out fundraising and asking people to donate it makes a difference.

Mr. Hoewing: I have raised money for the projects so I know. I am still not inclined to do it only because of precedent, we did it those other times, I don't think I was in any of those situations where I was actually involved in doing it and even the schools I can't believe Montgomery County couldn't pay impact fees myself so I would have had a hard time supporting that.

Mr. Kuhlman: Well they in fairness have waived our impact fees that they charge, we didn't have to pay it here, we didn't have to pay it for the bandshell.

Mr. Klobukowski: We don't have to because we are an incorporated town.

Mr. Kuhlman: Yes you do Jerry.

Mr. Klobukowski: Well I don't believe that.

Mr. Kuhlman: Ask Wade.

Mr. Klobukowski: I'll ask Jay.

Mr. Yost: Just like every house has to pay it also.

Mr. Klobukowski: Really.

Mr. Kuhlman: Yeah.

Mr. Klobukowski: Well even so...

Mr. Yost: It is for different items, water, sewer, roads.

Mr. Klobukowski: Well as I recall (inaudible) with respect to the law therefore we have our own authority to make our own law, if we didn't...

Mr. Hoewing: So I guess I am still not comfortable with it myself.

Mr. Kuhlman: Lori?

Ms. Gruber: I think the tax benefits of having the building put up now would help we don't know how long it would take if they decided that they couldn't deal with the fees and were not going to go through with the purchase of the land, you don't know how long it is going to take to find a new buyer. I think that I would be willing to waive the park fees but maintain the original impact fees so \$186,167.00.

Mr. Kuhlman: Jerry?

Mr. Klobukowski: No my position is no I agree with Link and Jim.

Mr. Kuhlman: All right so it is kind of evident then that the majority of the Commissioners would be willing to waive the \$26,000.00 but not offer any...

Mr. Klobukowski: I am not willing to waive anything.

Mr. Kuhlman: I said the majority.

Ms. Gruber: Majority not all.

Mr. Brown: And I asked for clarification but I am in favor of waiving the park in lieu fee but not the impact fee.

Mr. Hoewing: But you want them to sign a waiver that they are not going to use the parks ok.

Mr. Brown: I will approach them individually with that. I am up for reelection you know.

Mr. Hoewing: I noticed that.

Mr. Kuhlman: All right is there anybody in the audience have anything they would like to say. Yes you need to come up front please.

Dr. McInnes: Tom McInnes, 19729 Selby Avenue. I always thought on all the calculations going forward could you generate a calculation showing what the Town's tax scheme would be in 5 years, in 10 years, in 20 years once you build a residential structure it usually generates for decades and right now you can look at what minimal tax you are earning on the property as it stands and the possibility of it being developed some other way, run a projection where you will be with the investment lets say in 30 or 40 years, you may find that, and I am not commenting on the pros and cons I very much support Habitat for Humanity from a philosophic standpoint our church has built help build a couple individual homes in this region but look at what the tax benefits would be for the town and whether that overrides the current give back that you are going to give, see where the equation is lets say in 50 years.

Mr. Hoewing: Lori raised that too and I think it is a good idea. What I guess I am wondering about Eddie is why where the developers are building single family houses out here, is it because it is such a small project is that why no developer would do that?

Mr. Kuhlman: It is a very small project for most of the developers and for them to come in and pay the price and our fees and the impact fees from the county and everything you are looking at having to end up with a market unit of about \$350,000.00 is what I would say in my professional opinion and how are \$350,000.00 priced townhouses going to sell in Poolesville?

Mr. Hoewing: Not well.

Mr. Kuhlman: I mean as I said in the opening comments I presented the property and the project to two developers I have worked with or two builders over the years and they didn't see how they could make any money doing it. I know that the present owners of the property have put a package in front of no less than 5 to 7 builders they have had no interest. I know the two builders building in town right now have been shown the property they had no interest in moving on it they didn't think it was that profitable and as the doctor said and I think I said in my statements I am looking at, I don't like giving up the fee, even the small amount but I think the concept as the doctor was saying getting it built, getting the corner cleaned up and looking good because the site plan is nice looking and starting to collect the property taxes from 17 units rather than an unapproved lot I think makes a lot of sense.

Mr. Hoewing: What is that about \$2000.00 a unit and its piggybacked right is that what it is. We get 50% of the tax don't we on the property tax.

Mr. Yost: Well no it is 15 cents per hundred dollars of assessment.

Mr. Klobukowski: What would the initial assessment of the townhouse be?

Mr. Yost: I believe it is what the sale price is.

Mr. Kuhlman: Yeah. Mr. Coakley hand up Sir?

Mr. Coakley: George Coakley 17304 Brown Road. Just to throw out for discussion one thought that crossed my mind was for a quick pro quo and that is I have never really given up the potential idea of putting a roundabout at the intersection of

Wootton and Fisher and as a tradeoff on the town supplementing any of the fees to get a right of way that would be sufficient to put a roundabout in if and when the town ever decides to do that, should the town decide 10 or 15 years from now it may cost a lot more than what you are talking about now in giving up in impact fees and the park stuff.

Mr. Kuhlman: True all right Mr. Stump you had your hand up.

Mr. Stump: Chuck Stump if you do the math real quick its roughly 3.8 or 3.9 years before you would make back the park in lieu fees.

Mr. Kuhlman: All right thank you Sir. Mr. Maisel.

Mr. Maisel: Josh Maisel 17505 Soper Street. I am the land planning --- designed this for the Jamison's. My firm Benning & Associates have been in existence for about 35 years. Just to address the question from Mr. Coakley I am 95% sure I looked at that in one of the earlier studies and there is the right of way already existing for the turnabout so I don't think that is something that is very viable.

Mr. Kuhlman: Thank you Josh. Anybody else have any comments? We do not have to come to a decision on this tonight. When did you say your Board meeting was John?

Ms. Gruber: November 30th.

Mr. Paukstis: I have an Executive Committee Meeting of the Board next Tuesday, a week from tomorrow and I would hope to present them with the adjusted budget at that time. The next full board meeting is November 30th.

Mr. Kuhlman: All right our next Commissioners meeting will be the 2nd Monday.

Mr. Yost: November 8th I believe it is.

Mr. Hoewing: Well it doesn't sound like there is a consensus so at this point I think the best thing to do is for them to go back and say that the impact fees apply and see what he can do with the board is my feeling. I mean I do think the idea of looking ahead is a good one, one of the difficulties though is that that would be money that goes in the general revenues. The way the impact fees go they go for certain uses so we'd either have to decide that we are going to agree with that kind of approach and say we are going to allocate a certain percentage of that like we do with impact fees or not, otherwise its not an equivalent exercise and even that wouldn't control it because we could always change it, you can't with impact fees.

Mr. Brown: I think you probably got a pretty clear picture about where the maximums and the minimums are right now on it without us coming to a decision unless I am reading this wrong. I am sure we will be taking it up again but for now you can see where the --- lay.

Mr. Paukstis: No that is fair and I will be back November 8th.

Mr. Kuhlman: All right Sir thank you very much. All right moving on Resolution 007-10 the fee schedule. Is there any discussion on this? When was this introduced Wade?

Mr. Yost: September 20th.

Mr. Kuhlman: Ok.

Mr. Hoewing: Have you had many people come in and get copies of both the old and new fees or this hasn't generated much interest?

Mr. Yost: Just Tom Kettler and Stoney Springs.

Mr. Hoewing: Ok.

Mr. Kuhlman: All right hearing no discussion is there anybody that cares to make a motion?

Mr. Klobukowski: I would like to put this off until the next meeting. I haven't had time I want to look at a couple things, I am not ready to vote on it right now.

Mr. Kuhlman: Ok anybody else with any comments?

Mr. Hoewing: Do we have to do it tonight, I could wait.

Mr. Kuhlman: No that is fine with me.

Mr. Brown: Not unless Lori wanted to waive it.

Mr. Kuhlman: Jerry are you willing to give some dialog as to what your concerns and what you want...

Mr. Klobukowski: I just really haven't had the time to look at it the way I really would like to look at it. I wanted a side-by-side comparison I didn't get a side-by-side comparison I didn't have time to do a side-by-side comparison. Also some of the figures here as to what we are charging its like I understand that we do print the Master Plan and the Town Code we have money for that and one fee went down I think maybe 5 bucks or something but I am just not prepared to I want to look at it a little bit more.

Mr. Kuhlman: Very good, very good I was just asking. All right moving on then we have Resolution 008-10 Rebuilding Together Montgomery they've requested us to endorse and agree to the Resolution, this is their letter of request that is attached it says "Dear President Kuhlman Rebuilding Together Montgomery County is submitting an application for the FY11 Community Investment Tax Credit program offered through Maryland's Department of Housing and Community Development Division of Neighborhood Revitalization. This is for our volunteer home repair programs, a description of the proposed project is attached. A local government resolution supporting the tax credit project is required prior to final approval of the application. I have also enclosed a sample resolution form provided by DHCD, the Resolution must be on your jurisdictions letterhead. We have enjoyed our partnership with the community and look forward to continuing to serve our residents via this program. We hope you will assist us by supporting us in this request if you need any further additional information please call me at so and so it is imperative that I receive the resolution as soon as possible to complete the application. I would appreciate a receipt of this request." And the Resolution states "Whereas Rebuilding Together Montgomery County a non-profit organization proposes to undertake the project described above and whereas Rebuilding Together Montgomery County has applied to the Department of Housing and Community Development of the State of Maryland for approval of the project and an allocation of tax credit for business entities and individuals that contribute to the project under the departments Community Investment Tax Credit Program and whereas the Commissioners of Poolesville support the project, now therefore it be resolved that the Commissioners of Poolesville hereby express support of the project as described above and be it further resolved by the Commissioners of Poolesville that this Resolution shall take effect immediately upon adoption and the project is to support Rebuilding Together Montgomery County to bring volunteers and communities together to improve the homes and lives of low income

homeowners and home repair programs". Is there any discussion? Hearing none is there any motion on the Resolution?

Mr. Klobukowski: Move to adopt.

Mr. Kuhlman: Is there a second?

Ms. Gruber: Second.

Mr. Kuhlman: All in favor?

All: Aye.

Mr. Kuhlman: Motion carries.

Committee Reports

Mr. Kuhlman: Planning Commission Report Mr. Coakley.

Mr. Coakley: George Coakley, Chairman of the Planning Commission. We had two items on our meeting last week, one was presentation by Habitat for Humanity and the one concern that we had is several members of the committee felt that since the corner of Wootton and Fisher is the gateway to the Town Center that there was some concern voiced about the facades of the townhouses, whether they should be all brick or whatever, but I think they were a little put off by the one slide in the presentation that showed the project they had done over in the Olney area or Burtonsville area and the one that Craftsmark has that they are following I think would certainly fit the requirements of Poolesville. The other item we again looked at the Master Plan review and we got our first glimpse of the feedback on the survey and we just started looking at that and decided to schedule some work sessions during the next several months to evaluate and incorporate that data and moving the Master Plan forward.

Mr. Kuhlman: Thank you Sir. Parks Board Mr. Brown.

Mr. Brown: One question for Mr. Coakley. Those will be open for the public and open for public input the work sessions?

Mr. Coakley: All of our meetings are open to the public.

Mr. Brown: I understand that.

Mr. Coakley: To my knowledge we have not had a closed meeting.

Mr. Brown: Just wanted to make sure.

Mr. Coakley: No it is rare when we get involved in anything that has to be held privileged.

Mr. Hoewing: We only allow sitting Commissioners though if you are unelected in the next election you are not allowed to go, so you better win.

Mr. Coakley: Yeah the more input we get the happier we are.

Mr. Brown: I'm questioning who you are going to vote for now Link.

Mr. Kuhlman: Brown Parks Board.

Mr. Brown: Parks Board Meeting well first of all in our Parks Board Meeting there was a tour of Stevens Park before which I wasn't able to make but I had to work unfortunately so Wade what did we do during that.

Mr. Yost: The initial thing was to take a look at the dugout covers that were placed by the Eagle Scout, his name escapes me and he did a great job with that, its not complete but he signed off as far as his Eagle Scout Project goes and then we did take a look at the park we will be expanding that next year. It has been planned in the budget for several years and hopefully we will get some POS money with that if they don't shut that program down also and that was really about it.

Mr. Brown: So that was the first part of the meeting and then we reconvened here and really the biggest part of that once again was the streetscape signage and branding section of the meeting and once again Tom Kettler was in and we had some discussions about it and I think we ended up tasking you Wade for...

Mr. Yost: Developing an RFP for the design and fabrication of entrance signs, a couple park signs, and some way finding identification signs.

Mr. Brown: Right got ya. And then that was the end of the Parks Board meeting but while I still have the microphone I just want to say before the next meeting that it has been an absolute pleasure serving with Lori for the last 18 months, 17 months, you have done a spectacular job and I wish you were willing to stay on but if not you will be missed, and who knows maybe I will be joining you in retirement.

Ms. Gruber: Thanks Jim.

Mr. Brown: My pleasure.

Mr. Hoewing: I second that emotion.

Mr. Kuhlman: CEDC Ms. Gruber for your last and final report.

Ms. Gruber: Nothing they meet next Wednesday. Somebody else's report.

Town Manager Report

Mr. Kuhlman: Mr. Town Manager do we have our schedule on there?

Mr. Yost: Yes we did talk about scheduling our first meeting in November on the 8th move it back because of the election and then the 22nd would be the second meeting. Typically sometimes we meet, sometimes we don't depending on what everybody's schedule is as far as Thanksgiving being that week. So whatever discussion you guys want to have with that 22nd meeting have it or not.

Mr. Kuhlman: I don't know I don't know what we got coming up on the agenda. If nobody disagrees lets say we are having a meeting on the 8th and the 22nd right now and we can change our mind on the 8th if we want to.

Mr. Yost: Perfect ok.

Mr. Brown: I will be available.

Mr. Kuhlman: Either way as a citizen or a Commissioner.

Mr. Brown: Exactly.

Mr. Kuhlman: Anything else?

Mr. Yost: I'll touch on the projects going on in town real quick. The sidewalk project it was slowed up a little bit waiting for Washington Gas and then Allegheny both to move some utility obstacles out of the way, within the next 2 to 3 weeks that should be complete and then the contractor will move out, they have several repairs throughout the community for sidewalks, curbs that were broken different things like that they will be repairing also so they will be here for another month before they wind up the projects totally. And really that is it because we talked about everything else already.

Mr. Hoewing: That has made a huge difference already not that I've I was not supposed to use the sidewalk but I have and its great. I jog on it. On the trash issue that the mother raised has that still been an issue.

Mr. Yost: Its not us but somebody is picking the trash up yes. I think it is a group of kids and possibly parents also.

Mr. Hoewing: But they are keeping it clean so it is just this issue of bullying which that does concern me and I have seen bikes over there and I've gone over and tell the kid and usually when I go over there they stop.

Mr. Yost: And we have too but if its off hours or weekends...

Mr. Hoewing: I know we can't have people over there all the time.

Mr. Yost: Exactly.

Mr. Kuhlman: All right anything else?

Mr. Yost: That is it.

Citizen Forum

Mr. Kuhlman: Citizen's Forum anybody, Mrs. Barnes.

Ms. Barnes: I have a question for the Town Attorney. Will the Board of Zoning Appeals act upon Judge Dugan's remand regardless of the outcome of Ordinance 183 and when would that be?

Mr. Kuhlman: I haven't heard the question you need to...

Ms. Barnes: Oh my name is Linda Barnes I live at 19735 Selby Avenue. The question is will the Board of Zoning Appeals act upon Judge Dugan Jr's remand regardless of the outcome of Ordinance 183?

Mr. Gullo: Yes they will be. I talked to your attorney.

Ms. Barnes: So they will be convened?

Mr. Gullo: There will be a Board of Zoning Appeals hearing because the judge's order when it is reinstated requires them to meet to hear to have it so that will happen. Your second part of your question was when and that's unknown at this point, the order with the Court of Special Appeals was received 3 weeks ago, it sits for 30 days during an appeal period that could happen, then it gets remanded to the Circuit Court and then they issue an order so we can't really act until we get the order.

Ms. Barnes: Ok and that will be advertised for 2 weeks or something is that required.

Mr. Gullo: Yeah once we get the order to have a hearing then it will be just like a normal hearing, posted, advertised at that point.

Ms. Barnes: Posted with a sign in front of the property.

Mr. Gullo: Is that your normal procedure.

Mr. Yost: When they go through the initial special exception process yes.

Mr. Gullo: So yes it will be a posted sign again. You can estimate, I don't want to be evasive but I had this conversation with your attorney estimating I couldn't imagine it happening much before December or late November just because...

Ms. Barnes: Courts move slowly.

Mr. Gullo: Yeah so once we get the word the time period for us to schedule a hearing has to be met so I would figure that is what you are looking at, regardless of what legislation is passed there will be a hearing.

Ms. Barnes: Ok so why isn't since this is still under the appeal process why isn't the sign out in front of the property from the get go, all this time it has been in appeal and according to Alsobrook, Town Manager he said when he trained the Board of Zoning Appeals that if there is an appeal all the way to the Supreme Court that there would be a sign on that property.

Mr. Gullo: I can't say why it wasn't but we'd really serve no purpose because the sign is going to say please come to a hearing on this night to talk about this issue which would have been a few years ago so I mean the idea is that it is supposed to serve a notice function.

Ms. Barnes: Ok that makes sense. And is there any way we can put the Board of Zoning Appeals meetings on the website please so we know when they are that would be helpful rather than just at Selby's. Thank you.

Mr. Kuhlman: All right anybody else? Seeing no hands entertain a motion for adjournment.

Adjournment

Mr. Klobukowski: So moved.

Mr. Kuhlman: Is there a second?

Ms. Gruber: Second.

Mr. Kuhlman: All in favor?

All: Aye.

Mr. Kuhlman: We are adjourned.