

**COMMISSIONERS OF POOLESVILLE
MEETING OF APRIL 12, 2010**

PRESENT: JERRY KLOBUKOWSKI, JIM BROWN, LORI GRUBER, LINK HOEWING, AND EDDIE KUHLMAN. ALSO PRESENT WAS TOWN MANAGER, WADE YOST AND TOWN ATTORNEY, ALAN WRIGHT.

Call to Order

Mr. Kuhlman: Good evening ladies and gentlemen we will call the April 12, 2010 Commissioners Meeting to order. For the record let it reflect that all Commissioners are present as well as Town Manager and Town Attorney. First order of business will be the Pledge of Allegiance if you all will rise please, 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.

Announcements

Mr. Kuhlman: All right thank you. Any announcements?

Mr. Hoewing: Yes I have got one. I don't know if any of the Commissioners had a chance to go up to the Business Fair that was held on Saturday but having been involved with the PTA and many volunteer organizations for all my life and I have had to put on events like that one I can say that was one of the finest events I think I have seen, for a couple of reasons, one is it was a big turnout which we had one of these before and I don't know if you guys went to that one but almost nobody attended it, and secondly they also were able to infuse a real sense of community with a lot of dances from kids, the Midnight Players from the high school, it was really well planned, well done and I just want to highlight the work of the CEDC that they really deserve some credit for this event.

Mr. Kuhlman: Very good anything else?

Mr. Klobukowski: Yeah I attended as well and I thought it was very well run and everybody seemed to be having a good time. I learned a lot about the businesses in around Poolesville I didn't know about and hats off to the CEDC for doing it. Last night or correction last Thursday I testified before the Montgomery County Council on behalf of the Commissioners in support of the Poolesville Cluster Library and the Upper Montgomery County Volunteer Fire Department and the Montgomery County Police Germantown Substation. Also on the 26th of April there will be an event at the high school run by Poolesville Pride concerning bullying prevention and response all those parents who might be interested are welcome to attend and get some more information I think one of the things that has been in the news recently is the cyber bullying, the girl up in Massachusetts, there is another girl I think down in Texas who committed suicide because of the bullying that she received over her cell phone or online. Also I met with a gentleman who lives over in Tom Fox who is interested in establishing a Neighborhood Watch program and Wade and I talked about it and we exchanged emails with the gentleman to see what we can set up and have one of

the Police Officers come out and discuss with him and us how this would go about, but the gentleman has approximately 6 individuals who already go out at night and find things out which I didn't know about and have resulted in one successful prosecution of vandalism. I think also it is time that we had our Germantown Substation, Montgomery County Police Germantown Substation Commander come out and talk with us again and give us a little brief on what is happening in and around Poolesville with respect to crime and other things and allow us to question him and the citizens to question him about what is being done or what is not being done and why, beyond that lets see one other thing, nope that is it, thank you very much.

Mr. Kuhlman: Anybody else? Our next meeting will be on May 3 and at that meeting we will be honored with the presence of State Senator Rob Garagiola and hopefully all three of the Delegates to present us with a wrap up of the Legislative Session this year and with that we will move on to the approval of the minutes of March 22,...

Mr. Klobukowski: Excuse me one second you said May 3rd?

Mr. Kuhlman: Yeah.

Mr. Klobukowski: We are not going to meet...

Mr. Kuhlman: No this is our only meeting this month.

Mr. Klobukowski: Oh ok all right.

Mr. Kuhlman: Oh yeah you weren't present at the last meeting when we decided that I don't think, yeah you were.

Mr. Klobukowski: I remembered the 12th but I didn't remember the 3rd. Oh one other thing the 19th I believe of April there is supposed to be a meeting of the "Keep Monocacy Open" round table at the middle school. So right now that is progressing unfortunately it seems that the feedback or the feeling I am getting of some of the Committee Members are getting from the County is that they are really not interested in keeping Monocacy open there is a feeling there that they are really set about closing it down and I think there is a lot of misapprehension or misinformation out there about keeping Monocacy open versus bringing all those kids down to Poolesville and what it would do for Poolesville. I think this is a larger issue than just one school, it is a cluster issue, it is an issue that impacts long term the middle school and the high school and I think we all ought to be aware of that and there is one other thing and it is just gone sorry, I give up, thank you.

Approval of Minutes

Mr. Kuhlman: All right is there a motion for the approval of the minutes of March 22nd?

Mr. Klobukowski: So moved.

Mr. Kuhlman: Is there a second?

Mr. Hoewing: Second.

Mr. Kuhlman: All in favor?

All: Aye.

Mr. Kuhlman: Motion carries.

Open Forum and Citizen's Comments on Agenda Items

Mr. Kuhlman: Open forum anybody have anything in general? Mr. Pierce.

Mr. Pierce: When you say in general were you going to open up on the business items or this is it?

Mr. Kuhlman: Yes in a few minutes.

Mr. Pierce: Ok. Number one Resolution 02-10 the budget and tax rate I just want to say that I oppose that again I believe that our tax rates should be reduced by about 50% and our water and sewer handled as an independent enterprise with separate funding and we should be collecting money from the County as a part of that funding and reduce that burden on the taxpayers of the Town since over 50% of our budget goes to water and sewer. Second item is the Charter Amendment Resolution I submitted comments late, I ask that those be made part of the official record and then I won't read them if you will agree to that. But I would like to ask some questions on the Charter. Section 82.3 you've set up now that the Commissioners could potentially receive a salary and at the same time you have dropped the potential for salaries from the Planning Commission, the Board of Appeals and I think there was another Commission in there in the Charter and I would like to know or have you explained to the public why the Commissioners should be receiving a potentially I understand no salary has been adopted but potentially the Commissioners could receive a salary but the other volunteers in the Town now would no longer be potentially eligible for that so I think that needs to be explained to the Town. Section 82-4 I believe that the Town Manager should be specifically identified as the one that hires and fires staff under his control or her control, I don't see that...

Mr. Kuhlman: You need to go back to the Code.

Mr. Pierce: Ok I would think the Charter should establish the roles and duties, well...

Mr. Kuhlman: His duties are outlined in the Code.

Mr. Pierce: Ok it just seems inconsistent, you have things like this new Committee on business, Economic and Development Committee all kind of detail in it and when it comes to the Town Manager nothing is specified in the Charter so I would think you should be consistent on that. With regard and I noticed that the Ethics Commission is not mentioned at all in the Charter, I think they belong in the Charter if the Economics and whatever that is committee belongs in there and the Sign Board belongs in there certainly the Ethics Commission should be in there. I believe the Ethics Commissions duties should be expanded to cover all of the items that are listed under recall of an elected Commissioner Eddie in 2.48 so that that doesn't necessitate right off the bat having to do a referendum, if we have a Body that can look at that and make a judgment on it, it would save everybody time and money in the Town. I don't know if your working session meeting minutes are available anywhere, Link suggested that the registration of voters for some reason you can't have a separate registration list and I don't know why so I would like it explained to the public why that is if there is a law in the State that prohibits it or what, to me it makes sense from a Home Rule concept for us to have our own registration list and not rely upon the County for that.

Mr. Kuhlman: Right now Bob there is one person on the Private Poolesville Registration List and I believe they are also on the Universal Registration List, so there is nobody to be on the Private List, we are mandated by State Law to accept the Universal Registration List as the registration list so...

Mr. Pierce: State Law does mandate that, I just couldn't find the reason I wanted to know what that was.

Mr. Kuhlman: And work sessions are not recorded.

Mr. Pierce: That is what I figured after I went looking for them that they weren't on there.

Mr. Hoewing: What was discussed was in a Public Hearing was what I said Bob it wasn't just discussed in a work session.

Mr. Kuhlman: Work sessions are open to the public but there are no minutes.

Mr. Pierce: Anyway as far as the Clerk's duties I think those ought to be specified more, I don't know if we have a well bound book anymore, which is her only duty in the Charter and so that ought to be improved.

Mr. Kuhlman: And we do. We do have a well-bound book.

Mr. Pierce: Ok but she has a lot of other duties, he or she whoever it is, and I know Bobbie does, Nancy did before but I think those should be enumerated in the Charter. Powers of the Commission as to water and sewer system, not surprising I think water and sewer ought to be put on a separate enterprise and this is the place to do it in the Charter, you are amending the Charter, the Charter should be consistent with most if not all of the other Charter's in the State. We should have a separate enterprise system where everybody is charged their full fair share including the County. Jerry is talking about the sentiment running towards closing Monocacy we get all their students even more reason that we should be getting money from the County for water and sewer and not just have the taxpayers of the Town picking up that cost. With regards to 82-17B where you deleted all of the ability of the Commission to make decisions with regards to private water and or septic systems, I think what you have done is formed what is called a quick take and I think it is unconstitutional and it is the only place in the Charter that I think you have actually scrapped all future Commissions so that they have no options, used to be an option for them to make a reasoned decision, no option now that leaves only the corpse and that...

Mr. Kuhlman: A reasoned decision about what?

Mr. Pierce: About whether or not somebody's well is going to be taken from them on their private property. You have taken out all the language that would allow the waiver that used to be there to allow wells to still exist on private property.

Mr. Hoewing: Unless I am mistaken though what that refers to is when we put a water line in front of your house you are required to connect to the water line, not allowed to keep a well and that makes sense. Isn't that what we did?

Mr. Pierce: You may think it makes sense but...

Mr. Hoewing: We have got a water table and when you have a water table it is a public resource, you can't have other people having wells and taking out of that water source.

Mr. Pierce: I'm sorry the State does it all over the place.

Mr. Klobukowski: Let me ask, are you through Mr. Pierce?

Mr. Pierce: One more.

Mr. Klobukowski: Go ahead.

Mr. Pierce: Oh the other one is, the last one is, why is the Community and Economic Development Committee have so much detail on it as to who can be on the Committee, I think there is too many people, the distribution is fine, I think somebody from Planning needs to be on it because it seems like a lot of the duties of

that Committee could overlap with Article 66B requirements for the Planning and I think who is told they can't be on it if they miss three meetings and all that, you don't do that for any of the other Committees or Commissions in Town, they are adults let them decide all of that themselves, and you got budget in here where the funding is coming from you don't do that for anything else either, so it is just totally inconsistent with everything else you have done, that is the summary I have on the Charter, I did have one other on a different item.

Mr. Klobukowski: One reference to the Boards and Commissions yes there is a requirement that if people miss more than 3 meetings they can be taken off a Board or Commission. With respect to the referendum, the referendum is a democratic process like initiative and recall...

Mr. Pierce: I am not saying do away with it.

Mr. Klobukowski: Well the thing is, it sounds to me like what you are saying was if you would have the Ethics Commission be able to do a recall verse have a recall referendum where people would actually have to sign a petition, now I think that is part of democracy...

Mr. Pierce: No my comments said do both.

Mr. Klobukowski: Ok.

Mr. Pierce: If somebody wanted to come in and make a complaint on those recall items to the Ethics Commission let them evaluate whether it is legitimate or not and save everybody the trouble, and if they don't I would not do away with the referendum definitely, I believe that should be included in there long term.

Mr. Klobukowski: All right thank you.

Mr. Pierce: As far as I think you have a hard time selling this whole thing about a private well impacting Town water and hopefully it doesn't ever come to that but if it does it will go to Court, but what you are doing is just taking, it is private property and it is allowed under State Law and so I don't understand...

Mr. Hoewing: Same thing for the sewer?

Mr. Pierce: Pardon me?

Mr. Hoewing: Would you say the same thing about sewer, that you should be allowed to have a septic in your house too, if we have a sewer system.

Mr. Pierce: I would say there is a better argument for no septic.

Mr. Hoewing: Well. Why is that not taken?

Mr. Klobukowski: Who wants to take it?

Mr. Pierce: You know I will point out to you all that when I suggested that you put a sewer line down Westerly Road you all said no you weren't going to do it and in the agreement that we entered into you said that you would not find that my septic system is having an adverse effect on your wells, now there is certainly a lot more technical logic for saying a septic system will adversely impact water than would a well, a private well, and I think it could be made a very sound technical argument Link you smile and laugh...

Mr. Hoewing: Well I just don't think that is real. I think you are talking about a public resource which is the water table (inaudible) using a private well, you are drawing out of the same public resource, you are in the Town, you are not outside the Town.

Mr. Pierce: It doesn't matter. It is a private resource in the City.

Mr. Hoewing: Enough said we have already discussed it.

Mr. Pierce: Right. I am just suggesting that some of you consider that, that I don't think it is a wise thing to do and I think it is going to lead to trouble down the road. All I am asking is you maintain the current language that allows the Commissioners to entertain a waiver on this. I am not saying that you have to allow everybody to keep their well and sewer, I am saying maintain the existing language that gives Commissions options rather than setting, this is the only thing that you constrained all future Commissions to a very narrow path, they have no options, the existing language in the Charter gave them options and all I am saying is you should keep that. All right the last thing I want to mention is on Ordinance No. 178 on Alternative Energy again I support that I would ask that you modify it so that existing past and present farmsteads could have a traditional rather than a monopole as I suggested in my last comments at your last hearing on that and I also believe that it would be prudent to allow additional forms of geothermal, I do not think that there is a technical basis if you constrain it correctly for prohibiting vertical and slant drilling of wells for geothermal, I think we can protect the groundwater which I am just as concerned about as you, thank you.

Mr. Kuhlman: Thank you. Anybody else have anything on any of the agenda items tonight. All right seeing no hands we will move on to new business, CEDC request.

New Business

Mr. Whitehouse: Thank you we wanted to report back to you on our Phase 1 of our planning...

Mr. Kuhlman: Give your name and address for the record.

Mr. Whitehouse: Tim Whitehouse, 17207 Lightfoot Lane, Poolesville.

Mr. Kuhlman: Thank you.

Mr. Whitehouse: The CEDC has completed the first stage of a two stage planning process to determine whether and how to move forward with a farmers market at Whalen Commons in 2010. In this stage we sent letters to 49 area farmers and local vendors at area farmers markets to see if they would be interested in participating in a market on Friday nights at Whalen Commons. We also spoke with four businesses in Poolesville that we thought would be most affected by a market. In addition we received written comments from the Poolesville Area Chamber of Commerce, which I believe you all have copies of. We received 14 responses. 5 local farms expressed an interest in participating. In addition we received responses from 9 additional businesses expressing an interest in attending. These farms and businesses sell Italian Ice, specialty coffee, honey, produce, yarn and sweet corn. Based on the results of our outreach effort, we recommend that the Town move forward with four market days in late June, July, August, and in mid September. These market days would be in conjunction with the Town's Friday night music events and have additional activities accompanying the market and music. The CEDC would work with local businesses to explore ways that local businesses not participating in the market could benefit from this event. The CEDC is not recommending a weekly market. We received input that a weekly farmers market could draw business away from established businesses and that, for some businesses participation in a weekly event would be too much additional work for them to handle. To move forward with this recommendation, we are requesting

\$1640.00 in funding reallocation for the remainder of this fiscal year. If you approve our recommendation and reallocation request, we will move to our second stage of our plan. This phase will focus on finalizing a business plan, continuing our outreach efforts to area farmers and businesses, beginning implementation and advertising for the events, and purchasing eco-friendly reusable grocery totes, which will replace the canvas totes we use as our Welcome Bags. At the end of our first season, the CEDC would survey participants and businesses, I need a cup of water, on their reactions both positive and negative to the market, and on ideas for improving it. The results of this survey would be compiled as part of an end of the season report. In addition, we will compile a financial report. Our hope is that if this activity continues, it will become financially self-sufficient after the first season, and when I say the first season I actually mean now understanding the budget cycle, after the 2011 budget cycle. Our goal is to have an event that provides positive economic and social benefits to the Town. We have also attached a draft business plan, there is still work to do on that, we think it is important that as we develop this if you approve us to move forward that we continue to involve the local businesses and farmers in the development of this plan. I will highlight that we are currently considering three types of local products, farm or domestic products, locally prepared food, and also locally handmade arts and crafts and we would also like retail stores within the Town of Poolesville may sell products that they have not grown, processed or made, provided the products otherwise meet the above definitions and are grown or produced within 25 miles of Poolesville. We have specific dates we set out, this would be in conjunction with some of the larger bands that we are trying to get to Town, we have a current fee structure which we have been advised the first year to keep low, so as to see how successful this is, and if it is successful that fee structure would go up slightly. We have some ideas on additional activities which we have included, we do believe it is very important that this be a positive activity for all local businesses so as I mentioned we will be monitoring that closely and will be looking for ways to support local businesses if they not choose to attend. Perhaps by having booths here encouraging people, having coupons, having lists of products that are being sold in other stores here in Town. There are of course a lot of logistical issues we will need to continue to work on, the marketing plan we have the rough outline of a marketing plan there and we have a breakout of our finances for the \$1,640.00 and then we have a list there I believe in your package of those that have expressed an interest to us in response to our survey of the local farms and vendors. Thank you.

Mr. Kuhlman: All right \$1,690.00 is what we are talking about for the total project.

Mr. Klobukowski: \$1,640.00 you got the old one, if you total up the old one 1280 and 410 that is where you get your 1690. The new one that was left here on the table is \$1,640.00.

Mr. Brown: Thanks for putting it all together very nice ahead of time, good stuff, makes it easy.

Mr. Kuhlman: And the money is already in the budget right Wade?

Mr. Yost: Right.

Ms. Gruber: It is a reallocation.

Mr. Hoewing: Tim we did get a letter from the Chamber of Commerce expressing concern about the business impact but they also said that if you survey businesses prior and if you move it from weekly to monthly there would be a higher degree of support for the program by the community at large, they didn't say that they were endorsing it but so have you talked to the Chamber of Commerce.

Mr. Whitehouse: Yes we have we met with them.

Mr. Hoewing: Ok and the businesses that you surveyed, the ones that decided not to were Selby's, Lewis Orchard, Kingsbury Orchard and Homestead Farms.

Mr. Whitehouse: No Kingsbury Orchard is participating so there might have been some cross communication there with the Chamber. Kingsbury sent us an email saying they fully support a market and wanted to participate. So we talked to the individual markets, individual people, people have different reasons for some it is just not worth the effort, for others I think we have to pay particular mind to our local grocers there are now 2 and how that affects them, we have to extend an invitation to them and we have to make sure we encourage as the traffic comes here try to find a way to encourage people to go back out in the community and spend their money.

Mr. Kuhlman: Just out of curiosity Tim the original proposal was for a weekly with how many weekly sessions taking place during the year?

Mr. Whitehouse: We hadn't, because we hadn't yet talked to any of the farmers we didn't have a specific start date and end date but we were thinking mid June to mid September, some farmers markets go to later and some start even earlier.

Mr. Kuhlman: So that would have been how many weeks total?

Mr. Whitehouse: Oh you could run a farmers market for 16 weeks easily in this area. Again we hadn't gotten to that point yet because we hadn't spoken to...

Mr. Kuhlman: Well here is my question, I am not saying I am opposed to your proposal at all, but 16 sessions and if I remember correctly the original proposal was \$5,000.00 now we are down to 4 events at \$1,600.00, seems like if you go per event this is a lot more expensive what is going on?

Mr. Whitehouse: Well the fixed cost, the cost as you will notice on the breakout if you turn to the finances are a banner which we would need whether we have 2 or 20, yard signs, ads in the Monocle which would change depending how many we had, and then the grocery totes, so except for the ads in the Monocle the cost at least the initial cost to start the event are pretty fixed whether you have 2 events or 20 provided you want to do yard signs, a banner, and handout the grocery tote bags.

Mr. Kuhlman: And where would the banner be placed?

Mr. Whitehouse: Well we would have to talk to...

Ms. Bupp: State Highway. To get a permit to go at 107 and 28.

Mr. Kuhlman: Ok any questions or comments.

Mr. Klobukowski: Where did you say the banner was going to be?

Ms. Bupp: At 107 and 28.

Mr. Klobukowski: Oh right at that oh ok I thought that was private property.

Ms. Bupp: No for Poolesville Day we get the State permit to put it there.

Mr. Klobukowski: Oh ok.

Mr. Kuhlman: All right.

Ms. Gruber: Well presented.

Mr. Kuhlman: Anybody making a motion?

Mr. Hoewing: I move we approve the program as submitted by the CEDC.

Mr. Kuhlman: Is there a second?

Ms. Gruber: I second.

Mr. Kuhlman: Any discussion? Hearing none call for question on the motion, all in favor?

All: Aye.

Mr. Kuhlman: Motion carries unanimously thank you.

Mr. Whitehouse: Thank you.

Ms. Bupp: Thank you.

Old Business

Mr. Kuhlman: All right we have the budget and tax rate Resolution 002-10 for the budget tax rate. Before we get into that just a couple comments on some stuff we have heard from the citizens. If you take, going along with what Mr. Pierce was trying to get at, the subsidy from the for the County and the Pool and the Churches, if you do the math on this and I have set down and looked up the assessed value of the high school, middle school, elementary school, the pool and all four of the churches collectively in Town and then apply the Town tax rate to those properties and in a look at our property tax revenue is supposed to be \$1,067,298.00 this coming year. The grant for the water and sewer is \$117,000.00, which is 10.96% of the property tax revenue. If you take that 10.96% and apply it to the revenue the Town would receive from the 4 county owned facilities and the 4 churches we are talking \$7,094.00 is what the subsidy is, but then if you look at the water and sewer rate structure in Town as it currently stands, the 4 county owned facilities pay in the highest bracket going, which is above the cost to produce water and sewer, 93% of the Town pays less per 1000 gallons than it costs to produce the water and sewer so I'm fairly convinced in my opinion that there is nothing wrong with the way we are doing it, anybody else care to make a comment on this?

Mr. Hoewing: No I just add one point I agree with that and this is a point we have made over and over again and it still seems to refuse to get out there that in fact we have raised the rates for the highest users way above their costs and that doesn't mean we've dealt with the issue that Bob has raised though. When I first came to Office I read the report he is talking about and I agree it should be self sustained we are not there yet, so we have got more work to do, one of the ideas that has been suggested and its probably a better idea than just continuing to mess around with water rates because it is really hard to raise the kind of revenue for the water rates alone unless you raise the rate for everybody in Town a lot, is to have some kind of sewer fee because in fact the sewer system itself actually is being --- by the water system is what is going on right now, because we are only charging for water, we are not charging for sewer, so that is one idea that could be...

Mr. Klobukowski: If you look at the bill...

Mr. Hoewing: You are not paying for sewer.

Mr. Klobukowski: 54% of that is sewer.

Mr. Hoewing: You are paying for water.

Mr. Yost: A little bit more than that actually. We meter it through a water...

Mr. Hoewing: But it is water.

Mr. Yost: It is a water and sewer bill.

Mr. Klobukowski: It's a water and sewer bill, if you look at it I think 54% goes to sewer and then on top of that you want to charge another...

Mr. Hoewing: Goes to sewer. It is all water that we are metering, we are not metering...

Mr. Yost: Yeah but we broke it down in the budget...

Mr. Hoewing: But I am saying some towns actually either have a flat fee for sewer because it is a different cost, but we are not really doing that we are metering the water that is all we are doing.

Mr. Klobukowski: Yeah but some towns also have...

Mr. Hoewing: And I am not saying to oppose it Jerry I am just saying that is one way some towns have dealt with it. I mean Bob is right we are still not covering the total cost. Taxpayers are essentially helping pay for other people's water that they are not using that is true.

Mr. Klobukowski: Right but at the same token other towns like Rockville they have the water and sewer authority or WSSC which is a separate entity so if you want to talk enterprise that is an enterprise, they have the ability to raise their own revenue through both fees and bonds, we don't do that.

Mr. Hoewing: No but again the Maryland report did not say we had to do that to still run it like an enterprise, there are ways to do it in a small government without creating a separate enterprise, we could do that but in any event we are not covering the cost, Bob is right, we still haven't done that. Now we did again this year try to adjust the rates and it hasn't kicked in yet so the other thing I would point out is that we just did this recently so we don't know what the affects are going to be it could start covering the costs better than that, we just don't know right now.

Mr. Kuhlman: And plus we are still in the infancy of the new rate structure for water and sewer.

Mr. Hoewing: That is what I said, that is what I mean.

MR. Kuhlman: We haven't had a full year of billing under that rate structure. So anyway any discussion on the budget we have drafted and have had a couple work sessions on, anybody have any modifications or changes they want to discuss?

Mr. Hoewing: I would like to point out that Mr. President there was a lot of testimony against the citizens and one of the comments we get routinely is that people don't listen to the input, we did listen to the input we cut some areas that traditionally we have not cut for example one of the things that was mentioned was the MML Annual Meeting, we did cut the budget for that, some of us aren't going this year, I still think as I said in the blog post that it is a worthwhile meeting but I also think we are in tight budget times so some of us are not going, so we did listen to some of it and that is just one example of input that we got from citizens. That probably won't be reflected in the news reports but that is what happened, we did cut it.

Mr. Kuhlman: And having been shorted by the State our Highway User Fund money that they collect at the gas pump and through tag vehicle fees and everything else they are supposed to give that money to the municipalities to help with paving, they've decided again this year and over the weekend they decided further they are going to keep 90% of it for this year and 2 more years.

Mr. Klobukowski: I thought it was until further notice.

Mr. Kuhlman: Two more years at minimum, they have established a Committee to look into it and see what to do although coveted Baltimore got their money but no one else did. And then we have been told by the County Executive that his draft budget keeps 5% of our revenue sharing money that we are supposed to get out of the County that they collect and we've also been warned by several of the Council Members that that may go deeper yet. So we are at the bottom of the food chain in a lot of ways and the people above us are keeping money we historically should be getting so I think we have done a very good job on this budget and there wasn't one line item that wasn't carefully examined and scrutinized and a lot of it was trimmed so anything further?

Mr. Klobukowski: I have a question with respect because I emailed Link about because we are talking about front foot benefit charge and road responsibility and who has responsibility for the various streets like in county maintaining the roads and the lighting around various county facilities here in Poolesville. The pool is on Route 107 that is a County road on that side, the Elementary School is on 107 that is maintained by the State, Poolesville High School is on Willard Road and that's maintained by the County, and John Poole Middle School is on Tom Fox Avenue, which is maintained by the Town. I guess my question is to Wade with respect to what we pay for right now in those specific areas do we like around the pool if we do the cover heads there in front of the Elementary School and on Willard are we getting paid sufficient funds or reimbursement for whatever we do along those roads, lighting etc, etc.

Mr. Yost: The letter received from the County which is the revenue sharing program is based on a calculation that determines how many lights the county has relative to road miles and then it is broken down into how much per light they have and it applies to us but it may not be apples to apples but there is a payment for that.

Mr. Klobukowski: Ok so you feel that we are getting at least the money that we spend to pay for the electricity for the cover head.

Mr. Yost: It is probably (inaudible).

Mr. Klobukowski: And incidental maintenance along those roads that the County doesn't do and we do.

Mr. Yost: Allegheny does those as part of the agreement of the \$23.00 per month per light. So which is pretty equivalent to what they have to pay for all their lights. Road maintenance on the other hand, our quality of maintenance is higher than what the county does, so we don't get a dollar for dollar certainly with that.

Mr. Klobukowski: Ok thank you.

Mr. Kuhlman: Anything further? All right is there a motion for approval of the budget?

Mr. Hoewing: So moved.

Mr. Kuhlman: Is there a second?

Mr. Brown: Second.

Mr. Kuhlman: All those in favor?

All: Aye.

Mr. Kuhlman: Motion carries unanimously. The tax rate is...

Mr. Yost: .1594 per \$100.00 spent.

Mr. Kuhlman: Any discussion or comment there.

Mr. Klobukowski: I thought we said it was going to be .16 even?

Mr. Yost: No we didn't really talk about it, it was exactly what the...

Mr. Klobukowski: Constant Yield is all right.

Mr. Kuhlman: All right is there a motion for approval of the tax rate?

Mr. Hoewing: So moved.

Mr. Kuhlman: Is there a second.

Mr. Klobukowski: Second.

Mr. Kuhlman: All in favor?

All: Aye.

Mr. Kuhlman: Motion carries unanimously. All right Charter Amendments, this is going to be a lengthy one the way we have to go through this and anybody have any comments in general on this before we start.

Mr. Klobukowski: Well yeah number one right off the bat I am not in favor of any mentioning of any salary for the Commissioners in the Charter period.

Mr. Kuhlman: I understand but any comments in general. Ok I am getting tired of some of the lies and distortions printed in the weekly newspaper in this Town as it relates to this. We are being accused that we are going to break away from State imposed taxes and raise property taxes by 7% a year. The 7% referendum issue was done by a citizen here in Town in 1992 and the overwhelming majority of the residents in Town voted in favor of establishing this law 18 years ago, we are not changing it, all we are saying in this Charter revision is that if we can decide in January that we don't need to raise the taxes more than 7% we don't have to start as quickly as that says because the only way the citizens have a right to take the budget to referendum is if we increase the revenue by more than 7%. Other issues that I am looking at that are just totally false, evidently whoever wrote these articles didn't read this Charter at all, but they are saying that the President can appoint and fix the compensation of the Town Manager, Town Clerk, all Town Officials, that he can fire and hire at his whim and operate a mini dictatorship but if you go to pay three it clearly says that the Commissioners by majority vote, by majority vote, will decide who these heads are and affix their compensation, it says that the Town Manager falls under the total control of the President of the Commissioners, well the language reads the Town Manager shall act under the supervision of the Town Commissioners as the executive arm of the Town Government and perform such duties as the Commissioners may assign. Now the final sentence does say that the President of the Town Commissioners shall have the immediate responsibility for overseeing the work of the Town Manager, but it is the majority of the Commissioners that have the right to make him do things, order him to do things, so forth and so on. It accuses or says here that this Charter Amendment is going to permit the Poolesville Commissioners to establish industrial zones and on page 19 old number 66, new number 64, industrial zones, we don't have any industrial zone in the Town and we are removing that verbiage from the Charter so there will be no industrial zones in Town at all. And all this hype that we have had to read about for months about the Ordinance on the debt policy, folks we were mandated by the State of Maryland to submit a debt policy and whether the author of this paper wants to admit it or not we took verbatim the language that was in this Charter that

has been in this Charter for over 20 years and that is what we submitted to the State verbatim, it was nothing new, it has been here since I have been a Commissioner in 1990 the first time, nothing got changed, we just submitted what they wanted they wanted it enacted as an Ordinance to modify what we were doing, “of significance with the above Charter revisions, Kuhlman, Klobukowski, and Hoewing plan to shift the 7 million dollar Fisher Avenue Streetscape Plan responsibility to the Community and Economic Development Committee after over half the money for the streetscape plan has been spent” that is total bull, number one the Plan has never been set out for 7 million dollars, the author of this is the biggest liar I ever met in my life, we have repeatedly given reports in Town on this law and handed out paperwork that he refuses to evidently believe about what the cost is and if you go to what we are putting forth in this Charter it says that the Community and Economic Development Committee would have the right to give comments and advise on the Streetscape Plan, it doesn’t give them control of anything and I would really like to know that up to this point over the past 7 years the CEDC has been virtually violating the Town Code, Maryland Law and misusing tens of thousands of dollars in impact fees for the streetscape plan, I would love for somebody to tell me what law has been violated, and somebody really needs an education because streetscape is not in the impact fee calculation, it is not allowed to be in the impact fee calculation by Maryland law. “The Town Planning Commission that had the streetscape planning responsibility since 2000 voiced no strong objection to the shift of the responsibility to the CEDC” because there is no change, they still stay responsible and you know I am sorry and maybe I should just let this go but I --- agree that given the chance and you let people read enough lies and bull they will sooner or later believe it and unfortunately this man puts out a paper once a week that is full of lies and distortions and assertions and I apologize for my venting.

Mr. Hoewing: I would like to make one clarification for the record, it is not true that it was you, me and Jerry that pushed the streetscape budget, only you and Jerry did.

Mr. Klobukowski: Thank you I appreciate that.

Mr. Kuhlman: To get on with this Charter you all should have this Charter Amendment Resolution 001-10 we have to by law take each amendment and vote on it separately, not just the whole thing in one, we got to vote on each and every one of these places that we are looking at amending so it is going to be a lengthy process there is 24 of them. So amendment one is the Commissioner compensation, which basically summarizes and says that the Commissioners will be able to receive compensation for their services at some point in the future, whenever they decide to put money in the budget for that purpose and each and every Commissioner that may receive pay cannot receive it until after they stand election and have to be reelected, so that means right now if we put pay in this budget which we didn’t it means that Mr. Brown and Ms. Gruber have a right to stand for election in November, if they both were reelected they would be the only 2 that would be entitled to collect pay for the next two years, Jerry, myself, and Link would have to get reelected before we could collect pay, if it was in the budget, which it is not. Is there any questions or comments on amendment one?

Mr. Hoewing: Well I would just again point out I do not support salaries for the Commissioners, I still don’t, but I am also willing to let voters decide that, because

that is what they would be doing, if they knew that you were voting for this and I am here to stand for elections essentially so on that basis I am willing to do it. I do not support salaries for the Commissioners though.

Mr. Kuhlman: All right is there a motion?

Mr. Klobukowski: I agree with Link, I don't support salaries for the Commissioners.

Mr. Kuhlman: Well then we need a motion one way or the other up or down on Amendment No. 1.

Mr. Brown: I would like to make a motion that we approve Amendment No. 1 as stated on the Charter Amendments Resolution 001-10.

Mr. Kuhlman: All right is there a second?

Ms. Gruber: I second.

Mr. Kuhlman: Any further discussion, hearing none call for question on the Amendment No. 1, all those in favor.

Mr. Brown, Ms. Gruber, Mr. Kuhlman: Aye.

Mr. Kuhlman: Opposed?

Mr. Klobukowski, Mr. Hoewing: No.

Mr. Kuhlman: All right that motion carries 3 to 2. Amendment No. 2 the financial disclosure by candidates for Commissioner, basically what this does is any person desiring to be a candidate for the office of Commissioner shall not less than 30 days prior to this next election file his or her name with the Clerk to the Commissioners along with a petition of 25 residents who meet the requirements so forth and so on and they shall file a complete and accurate financial disclosure as required by the Poolesville Code and State Law, any comments there?

Mr. Hoewing: The question that was raised and I frankly forgot when we were going through this whole thing about the Ethics Commission and this is raised in this context, do we actually have another Code somewhere, the Ethics Commission?

Mr. Yost: The Ethics are in the Code.

Mr. Hoewing: It is in the Code, just not in the Charter, ok. And their duties are spelled out, because I haven't read it for a long time.

Mr. Yost: Yes but we are looking to revise that actually once we start going through the Code which is the next thing we are going to tackle.

Mr. Hoewing: From a legal standpoint just so everybody is clear, what is the difference between the Charter and the Code?

Mr. Yost: The Charter is just how we are organized and how we set up to establish our Government.

Mr. Hoewing: But legally there is no difference, the Code is actually more of enforcement more detailed about the duties and responsibilities and the activities in the Town.

Mr. Wright: Well the Code is, the Charter has some additional requirements for passage and changing and it can be sent to referendum and so forth.

Mr. Hoewing: Right and the Code can't be.

Mr. Wright: The Code doesn't have that. But it is basically like the Constitution and the Laws.

Mr. Hoewing: That is what I thought.

Mr. Kuhlman: If I remember correctly Link and I might be wrong but my memory tells me that when we put this Ethics Commission in, because I was on the

Commission in 1992 when this went in, the then Town Attorney, Dick McKernon his idea was put it in the Code it is easier to amend because you can amend that by Resolution, I mean by changing this Charter I mean number one we have to advertise these changes before time in a paper of general circulation and then how many days do we have to wait after that Wade?

Mr. Yost: We have to advertise it for 4 weeks and then you wait another 8 or 10 days after that last...

Mr. Kuhlman: It is a very lengthy described process to go through to amend the Charter, it is a lot easier to amend things in the Code.

Mr. Hoewing: Yeah I am aware of that I just wanted to make sure the public understood the difference that is all.

Mr. Kuhlman: Ok cool.

Mr. Klobukowski: The difference is the establishes the duties, the other one, the Code establishes the specifics of those duties, if you are going to say we'll add the right to lay out streets and establish parks and streets and then the Code tells you how you will do all that stuff. It is the technical aspects.

Mr. Kuhlman: I mean if you want to really get technical Jerry I wonder why these other Committees are in the Charter to begin with, the only ones that are required by Maryland Law to be here...

Mr. Hoewing: Planning Commission.

Mr. Kuhlman: Are the Commissioners, the Planning Commission, and the Board of Zoning Appeals. The rest of them can be back in the Code, those are the only 3 Committees in Town and the Board of Elections yeah they have to be, but the Parks Board is an advisory group they don't need to be in the Charter, the Sign Review Board doesn't need to be in the Charter, but we have them.

Mr. Wright: A lot of what is in the Code is historically there, it doesn't have to be in the Code, particularly all that list of things that the Commissioners have the power to do, the very critical piece of the Charter is where it says the Commissioners have the authority to pass legislation that is necessary and proper for the health, welfare and well being of the Town and that general purpose clause basically covers anything else that you want to do.

Mr. Hoewing: Right. No I remember going through the list of all the duties that we supposedly can assume and I am very upset that we removed the ability to have a Town band but...

Mr. Wright: You can have a town band.

Mr. Klobukowski: We used to regulate liquor tanks.

Mr. Kuhlman: All right any further discussion on Amendment No. 2? Hearing none is there a motion for approval?

Mr. Klobukowski: So moved.

Mr. Kuhlman: Is there a second?

Mr. Hoewing: Second.

Mr. Kuhlman: Mr. Klobukowski and Mr. Hoewing. All those in favor?

All: Aye.

Mr. Kuhlman: Motion carries unanimously. Amendment No. 3, appointment by the President of the Commissioners this deals with the Town Clerk, Town Manager and Town Clerk and removes the head of all offices, departments, and agencies of the

Town Government and the employees and puts those back in the Code underneath the Town Manager, so the Commissioners have a right to hire the Town Manager and the Clerk and then the Town Manager has a right to do the hiring and firing of everybody below that. And again it says that it is a majority of Commissioner votes. Any discussion there?

Mr. Brown: No.

Mr. Kuhlman: Hearing none is there a motion for approval?

Mr. Hoewing: So moved.

Mr. Klobukowski: Second.

Mr. Kuhlman: All in favor?

All: Aye.

Mr. Kuhlman: Motion carries unanimously. Amendment No. 4 – Petition for the recall of a Commissioner, basically this is adding that the signature pages shall be attached to the petition and all the pages consecutively numbered so that whoever gets, the Town Clerk when she gets this and the Board of Elections when they go to verify the signatures as being --- they can keep track of what is going on. Is there any comments on this one? Hearing none is there a motion for approval?

Mr. Hoewing: So moved.

Mr. Kuhlman: Is there a second?

Ms. Gruber: Second.

Mr. Kuhlman: All right all in favor?

All: Aye.

Mr. Kuhlman: Motion carries unanimously. Amendment No. 5 – Clarify wording on the meetings, the Commissioners shall meet in some convenient place, oh ok this is just clearing up the verbiage, it used to say they shall meet now it is specific and says the Commissioners shall meet. Is there any comments here?

Mr. Klobukowski: I have a question why are we, it just struck me, why do we say convenient place when we have a Town Hall?

Mr. Kuhlman: Because if you are going to have a public hearing you know it is going to be very large we might want to consider renting the high school or someplace like that and that is convenient.

Mr. Klobukowski: All right it sounds good to me.

Mr. Kuhlman: I understand I thought the same thing you did. We got this building why not put it Town Hall.

Mr. Klobukowski: Town Hall and convenient place ok all right.

Mr. Kuhlman: Any other comments? Is there a motion for approval?

Ms. Gruber: Motion to approve.

Mr. Kuhlman: Second?

Mr. Klobukowski: Second.

Mr. Kuhlman: All in favor?

All: Aye.

Mr. Kuhlman: Motion carries unanimously. All right Amendment No. 6 – Board of Elections, this removes the language of calling them Supervisors of Elections, converts it to Board of Elections, this is about all it does right Alan?

Mr. Wright: Changes the responsibilities for educating new election commissioners to the Town Attorney directly.

Mr. Kuhlman: Oh yes Mr. Pierce brought out in comments, does require the Town now to have just a universal voter registration list, the old private voter registration list will be no more, it deletes, Alan why don't you read the paragraph.

Mr. Wright: All right we have got a number of things in here. It changes the name and the registration for the County Board of Elections accomplishes the registration for the Town, we take out administration of oath as being unnecessary and we take out the application format provision because we don't have that responsibility anymore, that is the State registration process, we change the language of G the responsibility of registration officials to reflect the requirements that are existing in State law rather than the list of the ones that are, rather than to just say which applicants do not qualify as voters, we added a provision for listing the residents address which was something that came up in the last election where we wanted to be able to keep track of which voters might have moved out of town so we are going to require people to at least list their addresses so we can kind of follow up on that. And challenges to registration of voters rather than having that go through the Elections Commission there is a provision in the State law that we are required to follow so we just reference the State law.

Mr. Kuhlman: All right any questions or comments?

Mr. Klobukowski: Do we on some of this like where we say shall be made as provided by State Election Law, we don't have to reference a specific paragraph or section of state law?

Mr. Wright: Well it is better not to because they change their statutes from time to time and then we don't catch up with it and it has an incorrect section number.

Mr. Klobukowski: All right the other thing is B – Board of Elections, elections isn't capitalized is that because that is the format of all the other paragraphs.

Mr. Wright: No I think it probably should be.

Mr. Klobukowski: At the very top B where it says Board of Elections, board of and then brackets, supervisor of, and then we have elections lowercase.

Mr. Kuhlman: It should be capitalized.

Mr. Klobukowski: It should be capitalized.

Mr. Yost: But he is right the format of all the titles are not that way, but I think it probably should be also.

Mr. Klobukowski: I don't know I mean if it is consistent with one I don't know.

Mr. Wright: (Inaudible) keep the titles lowercase except for the first word of the heading or a title of a Commission or something like that.

Mr. Klobukowski: Well throughout the rest of the paragraph though everywhere else its Board of Elections and elections is capitalized.

Mr. Kuhlman: Every paragraph after that too.

Mr. Klobukowski: Yeah that is the reason why I raise the issue.

Mr. Wright: Yeah it should be Board of capital E elections.

Mr. Kuhlman: All right any comments or questions on Amendment No. 6?

Mr. Klobukowski: Make a motion we adopt Amendment No. 6.

Mr. Kuhlman: Is there a second?

Mr. Hoewing: Second.

Mr. Kuhlman: All in favor?

All: Aye.

Mr. Kuhlman: Motion carries unanimously. Amendment No. 7 – Town Manager 82.7, the new language would read, “The Town Manager shall act under the supervision of the Town Commissioners as the executive arm of the Town Government and perform such duties as the Commissioners may assign. The Commissioners shall allow the Town Manager such compensation, as they shall think proper. The President of the Town Commissioners shall have the immediate responsibility for overseeing the work of the Town Manager”. Any questions or comments there?

Mr. Yost: Wade do you like this arrangement that the President will have the immediate duties over you.

Mr. Yost: You have no idea.

Mr. Kuhlman: Is there a motion for approval?

Mr. Klobukowski: So moved.

Mr. Kuhlman: Is there a second?

Mr. Hoewing: Second.

Mr. Kuhlman: All in favor?

All: Aye.

Mr. Kuhlman: Carries unanimously. Amendment No. 8 – Town Clerk. The Commissioners shall appoint a Town Clerk that shall keep the minutes of their proceedings in a well-bound book, which shall be open to the inspection of all persons interested therein and shall perform such other duties as the Commissioners may assign. The Commissioners shall allow the Town Clerk such compensation as they shall think proper”. Questions or comments?

Mr. Klobukowski: I have to agree with Mr. Pierce with respect to --- the only thing to do there is to maintain a book when in fact the duties of the Town Clerk are much more involved, detailed, I am wondering if we should in fact move some of those duties up because they are significant, I mean maintaining the accounts and everything.

Mr. Yost: They do change quite often though.

Mr. Klobukowski: Ok.

Mr. Yost: I mean different things happen all the time and she is in charge of different things.

Mr. Kuhlman: What was it a couple years ago the Town Auditor suggested there was a change in the way the deposits were handled.

Mr. Yost: Well that is true.

Mr. Klobukowski: Well I was thinking one of the biggest things she does is the financial records of the Town right I mean she is responsible for entering all that stuff and paying and you sign the checks and all that stuff I mean to me that is a significant duty or responsibility.

Mr. Wright: This is another situation where we don’t need to spell out everything we say under such duties as may be assigned and the original idea of this was to rather than just to say shall appoint a clerk, was to give her a title, the Town Clerk, so that you wouldn’t confuse the Town Clerk with just somebody who happened to be a clerk in the office.

Mr. Klobukowski: Does this language comport with other languages in other town charters or in the State?

Mr. Wright: I don't know.

Mr. Brown: What would you find objectionable about it.

Mr. Klobukowski: To me to just say the well bound book aspect, to me the duties are just more varied, they are varied the financial aspect to me is a significant one and other things the records, maintaining records and all that stuff it seems to me there is much more significant things than maintaining minutes within a well bound book.

Mr. Hoewing: Well let me ask Wade a question. I assume and I haven't looked at this in a while but I assume you have your own set of duties for each of your employees and you have them listed and that is how you review their performance, I mean you set those out.

Mr. Yost: Right.

Mr. Klobukowski: But those are more or less like performance descriptions. But those can be modified more easily than this, we are talking about the Town Charter and I would think you would say something to the affect of maintain the financial administrative records of the Town and other duties as assigned by the Commissioners of the Town of Poolesville, to me would more accurately reflect what in fact she does, she maintains the financial administrative records of the Town.

Mr. Yost: Well actually and she only you guys really don't direct her directly, do you want to leave that language in for protection in case you wouldn't want a Town Manager having total control, so you guys have control of the Clerk too.

Mr. Hoewing: What is more significant to me is not her duties but the phrase who shall keep the minutes and other proceedings in a well bound book, which shall be open to the inspection of all persons. I think that is important whether we do that in a physical book or on the web, it should be on the web...

Mr. Klobukowski: If you want to include that but still I ok...

Mr. Hoewing: But what I am getting to though is there any other requirements that we have for making information public, like for example, we do it don't get me wrong, but I think the Master Plan do we have any requirements for making information available to the public other than minutes, is this the only place we talk about information that the Town has that is open to the public?

Mr. Yost: I believe so.

Mr. Wright: The Public Information Statute.

Mr. Hoewing: Oh the State has one?

Mr. Wright: Yeah State law applies here.

Mr. Hoewing: And what do they require under the State Law?

Mr. Yost: They can request in writing and you have 30 days to give the person whatever document they are looking for.

Mr. Wright: It details certain exceptions, as it can be confidential under what circumstances they can be maintained confidential.

Mr. Hoewing: But I am thinking about things like plats those aren't things that need to be confidential right, I mean if a person comes in today and says I would like to look at the plat for one of the developments they could come and get that.

Mr. Yost: Right.

Mr. Hoewing: So same thing with the budget, they can come and get a copy of that or if we had it online.

Mr. Wright: Basically if it doesn't come under one of the exceptions...

Mr. Hoewing: It's supposed to be made public, ok that is all I am asking. But other than that I mean this is archaic but it does have a duty that she has and an important one, which is the minutes that we have for our meetings so whether it is on the web which is where it should be or she keeps a well bound copy of it.

Mr. Brown: I think it is quaint, I don't think it is excessive plus as Alan says too less is more here in this case, I am with him on that.

Mr. Kuhlman: All right any further questions or comments? Is there a motion for approval?

Mr. Brown: So moved.

Mr. Kuhlman: Is there a second?

Mr. Hoewing: Second.

Mr. Kuhlman: All in favor?

Mr. Hoewing, Mr. Brown, Mr. Kuhlman, Ms. Gruber: Aye.

Mr. Kuhlman: Opposed?

Mr. Klobukowski: No.

Mr. Kuhlman: Motion carries 4 to 1. All right Amendment No. 9 deletes the requirement for the surety bond and Alan you can go ahead and explain why we did this.

Mr. Wright: We don't do it, it is unnecessary and there is really no reason for it securing the surety bond for performance of duties.

Mr. Kuhlman: Ok any questions or comments?

Mr. Yost: Well we are bonded, we still get bonded.

Mr. Kuhlman: Yeah I mean everybody is bonded.

Mr. Klobukowski: We are bonded though that is the thing. Ok.

Mr. Kuhlman: All right is there a motion for approval?

Mr. Klobukowski: So moved.

Mr. Hoewing: Second.

Mr. Kuhlman: All in favor?

All: Aye.

Mr. Kuhlman: Motion carries unanimously. All right Amendment No. 10 will amend 82.12 – Powers of the Commissioners – basically it omits number 9 band to establish a municipal band, symphony, orchestra or other musical organization, it removes paragraph 20, dogs to regulate the keeping of dogs and so forth and so on that authority has always been turned over to the County, they do it for us, number 40, the merit system we will be deleting some verbiage here and the request to avail themselves of a facilities of the Commissioners of the State employment and registration for the administration of such merit system without unnecessary expenses, Wade what was our reasoning behind here I forget.

Mr. Yost: That is the way we conduct our business, it was old language.

Mr. Hoewing: Do we have a requirement for a merit system though in our Code somewhere, we don't, so when this is gone we don't have a requirement for any type of...

Mr. Wright: That stays.

Mr. Yost: Yeah the merit system stays.

Mr. Hoewing: Ok.

Mr. Kuhlman: And then it will amend old paragraph or new paragraph 66 which will delete the words industrial so therefore there is no industrial zoning in Town right now and there will be no industrial redevelopment projects, any questions or comments on Amendment No. 10?

Mr. Klobukowski: Yeah one do we have or should we vote on each individual one of these versus all of them, I don't know just as a point of order...

Mr. Kuhlman: You are voting on the amendments to section 82.12.

Mr. Klobukowski: I understand that but each one is an individual stand-alone item and I was just curious as to what would be right and proper.

Mr. Hoewing: The previous one on the elections we had several sections there and we voted on them as one.

Mr. Klobukowski: Yeah but that was all under one title, one area...

Mr. Kuhlman: So is this. This is Powers of the Commissioners.

Mr. Klobukowski: Ok I just wanted to make sure. I know it is a minor thing.

Mr. Kuhlman: All right any questions or comments.

Mr. Klobukowski: I have one question on 66. How does this affect Morningstar Welding? By removal of the word industrial how does that affect Morningstar Welding?

Mr. Kuhlman: Basically the only thing it does is we don't have an industrial zone so take it out.

Mr. Yost: Zone we are talking about.

Mr. Klobukowski: All right I just want to make sure all of a sudden it is like...

Mr. Kuhlman: Just trying to clean up the language.

Mr. Klobukowski: I understand I just want to make sure when we clean it up (inaudible).

Mr. Kuhlman: All right is there a motion for approval of Amendment No. 10?

Mr. Klobukowski: So moved.

Mr. Kuhlman: Second anybody?

Ms. Gruber: Second.

Mr. Kuhlman: All in favor?

All: Aye.

Mr. Kuhlman: Motion carries unanimously. Amendment No. 11 dealing with the budget. It has a couple sections here, what this is really doing as I tried to explain a few minutes ago, back in 1992 when the 7% issue went in if we increase the revenue, if we are going to increase the revenue by more than 7% there are specific timelines set out to allow for a referendum. And this year is a good example, we are not raising the revenue but yet we have to have the budget adopted prior to having final figures from the food chain above, so what we are trying to get at here is a way to delay approval of the budget as long as we have made a straw decision not to increase the revenue by more than 7%, that explains A. Paragraph F is going to be amendment for typographical errors it was spelled out as referenda it is supposed to be referendum and paragraph G, nothing in this section shall be construed to limit the power of the Commissioners to adopt budget amendments and authorize special expenditures as may in their judgment be required in the interest of the general health, welfare, and safety. Any questions or comments from the Commissioners on this amendment? All right hearing none I will entertain a motion for approval.

Ms. Gruber: Motion to approve.

Mr. Kuhlman: Is there a second?

Mr. Hoewing: Second.

Mr. Kuhlman: All in favor?

All: Aye.

Mr. Kuhlman: Motion carries unanimously. Amendment 12- Rules and Order of Business – The Commissioners shall determine their own rules and order of business, they shall maintain the minutes of their proceedings which shall be kept by the Town Clerk as required by a previous section and that is all, any questions or comments?

Mr. Hoewing: On this section one of the things that Bob had said in his comments were that Roberts Rules of Order shall apply to Town Commission Meetings and meetings of the Planning Commission and so forth, there was a reason, I remember we got in a discussion about this a long time, why...

Mr. Kuhlman: I have been a Commissioner now for 14 years come November and no Commission I ever sat on has formally adopted a set of rules and I believe it was Andy Johnson one time made the comment in a discussion he said you don't want to adopt Roberts Rules of Orders because if somebody really knew it they would tie up everything or have the ability to tie up everything, I look at the way we have gotten along and gotten business done and I think we have done a very good job, I think we had some rocky roads a few years ago but that has come a long way, it is a very harmonious group I feel, we have our differences of opinion but we get work done, everybody seems to respect the other persons opinion and their rights and I am happy with the way things have been going. But if you have an educated person on Roberts Rules...

Mr. Hoewing: Yeah when I was in the Senate for 10 years and they also had rules there that were so cumbersome they actually had to have what they call special exceptions so you could get things done.

Mr. Kuhlman: Look at how they use and abuse them down on the hill.

Mr. Hoewing: Yes they do.

Mr. Kuhlman: Any other further questions or comments?

Mr. Hoewing: The only thing I would add to that though Mr. President is that one of the reasons for Roberts Rules is to make sure that there is input from the citizenry and I think we are doing a good job of that but just keep in mind that is one of the reasons for it, it is not just to make sure that the quorum of the Commission is done a certain way. As long as we continue to make sure that we get citizen input I am fine with that.

Mr. Kuhlman: Well we have all been accused of not letting citizens talk.

Mr. Klobukowski: It provides us a way of structuring the conduct of a meeting and to ensure that if you are going to amend Bills that everything receives due consideration and that people understand what they are amending and what the impact is and that you before you just vote on something you have a discussion a thorough discussion on it and I think we do that, we may not be the most articulate group in the world, we don't have the felicity of expression or harmony of composition of Thomas Jefferson but we get business done, or the --- of prose of Alexander Hamilton let me throw that in for the heck of it too.

Mr. Brown: Lori is walking out now.

Mr. Kuhlman: Is there a motion to approve Amendment 12?

Mr. Klobukowski: So moved.

Mr. Hoewing: Can you say it more proper than that please?

Mr. Kuhlman: Is there a second?

Ms. Gruber: Second.

Mr. Kuhlman: All in favor?

All: Aye.

Mr. Kuhlman: All right motion carries unanimously. Amendment 13 this is what Mr. Pierce was referring to the water and sewer and Wade correct me if I am wrong on any of this, there is several changes, the main change is as Mr. Pierce laid out we are removing the right for a Commission to consider a waiver, as Mr. Hoewing tried pointing out very correctly this Body has decided to take the State's advice and we feel that we operate a water and sewer system, municipal water and sewer system, we want to be in control of the water, we want to be able to know what is going on and we are not out here to close up anybody's well right now, there are properties that have wells operating within Town, we know who they are, we have a full list, we have no way to serve some of them right now with public facilities, there will be quite a few of them coming off of wells and or septic systems as properties develop because once development happens and the public facilities get to those properties then they will have to hook up.

Mr. Yost: Can I add to that also? Right now in Town, down Elgin Road, old area of Wootton Avenue when the original water mains were laid a lot of those folks came in and asked for a waiver, that was 35, 40 years ago, those wells now are not even properly abandoned, people don't use them, one guy had a birdbath that was built into it, we had to get that off, that was close to Well 2 and we had the contamination so there actually is a concern about these old wells and 40 years down the road that people that live their now don't even realize that it is a well in the ground there and it is an open contamination or potential contamination straight to the aquifer, so it is more than just trying to get somebody off their well, it is a real serious problem.

Mr. Kuhlman: All right this pretty much covers the changes, is there any questions or comments? Hearing none I call for question on the motion all in favor?

All: Aye.

Mr. Brown: Did we make a motion?

Mr. Kuhlman: Sorry is there a motion for approval?

Mr. Brown: So moved.

Mr. Kuhlman: Is there a second.

Mr. Klobukowski: Second.

Mr. Kuhlman: All right all in favor?

All: Aye.

Mr. Yost: Should I throw the book at him Roberts Rules.

Mr. Kuhlman: Ok the next 4 amendments have to deal pretty much with the same subject matter. But Amendment No. 14 which was totally misrepresented in articles in the newspaper is a deletion of all the verbiage of 82.20 – Collection of taxes by Town Clerk. The Town has not collected taxes for years, the County collects it and they send us what we are do, so the feeling of the Commissioners was we don't

perform this function anymore it has been taken over by a higher authority so why have the language in our Code, is there any questions or comments on Amendment 14? Is there a motion for approval?

Mr. Klobukowski: I do have one in thinking about it. If we were allowed to change the water and sewer from a fee to a tax we would then be able to collect taxes, however the State at this point in time does not allow us to do that. In other words as I mentioned before there are towns in the United States where the water and sewer is a tax, it is not a fee it is a tax, so are we going to possibly restrict ourselves and have to turn around and amend this sometime in the future in case we were able to do something like that.

Mr. Wright: I will have to check that as to what kinds of taxes we are permitted to levy but as it is we levy property tax and then we decide what we are going to spend it on, it might be water and sewer it might be...

Mr. Klobukowski: Yeah but that is collected through the State and the County and we get the check from the State on that. And again one of the biggest things is you talk about raising fees and everything else, fees aren't deductible, taxes are. And as we have all seen things are sort of tight, it just makes it more difficult any way.

Mr. Kuhlman: I don't recollect anybody talking about collecting a tax for water and sewer...

Mr. Klobukowski: I did I mentioned it every time we have talked about raising fees or whatever I said you know why can't it be a tax, I mentioned it last year, I mentioned it this year, I mention it again.

Mr. Hoewing: What does the general powers clause mean though Alan because it does say that if where Poolesville is created as a Corporate Body in the name of The Commissioners of Poolesville, I know we have changed that, but with all the powers and privileges of a Body --- corporate, does under State law would that mean we can impose taxes if we wanted to, even if we don't have it listed specifically in the Charter?

Mr. Wright: Well the municipal powers are subject to being overwritten by the State law.

Mr. Hoewing: Under that clause though does the State basically say that if we are granted the Corporation as a Town in the State you have taxing authority that comes with that by nature or not?

Mr. Wright: We have certain authority to levy taxes, that is spelled out in the State law.

Mr. Hoewing: So we do have authority under it, even if we don't have this in our Charter, we can still levy taxes.

Mr. Wright: We can levy taxes but not just any kind of tax, we can't do a sales tax for instance, we can't do a income tax except under the State income tax they make a provision for the municipalities to share in it.

Mr. Hoewing: But we could do what Jerry is suggesting if we want to impose a water tax for example.

Mr. Wright: I don't believe that would be, that is where I would have to check but I think that is strictly a fee and when you are assessing an amount of money for a certain usage of commodity than that is not a tax, that is a fee.

Mr. Yost: Right but it is for a larger capital expenditure that was for the good of the system as a whole not specific to a user I think that is where the line is.

Mr. Kuhlman: And further to complicate it a little bit what Jerry is trying to get at I presume on the schools and the pool, if you label it a tax they are tax exempt, so they wouldn't have to pay it, you'd want it labeled as a fee.

Mr. Hoewing: But the distinction is the service that you are getting you are paying for is what usually a fee is as opposed to a tax, yeah ok.

Mr. Wright: But we still tax and pay for the water and sewer we just bring it in under our other revenue our property tax base or our income tax share.

Mr. Hoewing: Ok.

Mr. Klobukowski: All right.

Mr. Kuhlman: All right any further questions or comments? Is there a motion on Amendment 14?

Mr. Hoewing: So moved.

Mr. Kuhlman: Is there a second.

Ms. Gruber: I second.

Mr. Kuhlman: All in favor?

All: Aye.

Mr. Kuhlman: Motion carries unanimously. Amendment 15 deals with the same issue, same proceeds tax sales, we are deleting this whole paragraph because this doesn't happen anymore.

Mr. Wright: And it doesn't happen because the State has the authority to collect the taxes, so we don't have a reason to have a tax sale, the State does.

Mr. Kuhlman: All right is there any questions or comments? Hearing none is there a motion for approval of Amendment 15?

Mr. Klobukowski: So moved.

Mr. Kuhlman: Is there a second?

Ms. Gruber: Second.

Mr. Kuhlman: All in favor?

All: Aye.

Mr. Kuhlman: Motion carries unanimously. Amendment 16 is being removed in its entirety, this has to deal with if we did do tax sales delivering of the purchaser at the sale of a new deed and as Mr. Wright just said this is State we don't do this anymore, haven't done it in decades and don't intend to do it, is there any questions or comments? Hearing none is there a motion for approval of Amendment 16?

Ms. Gruber: Motion approved.

Mr. Kuhlman: Is there a second?

Mr. Klobukowski: Second.

Mr. Kuhlman: All in favor?

All: Aye.

Mr. Kuhlman: Carries unanimously. Amendment 17 again we are removing this in its entirety because the Town doesn't collect the property taxes anymore, the County does, is there any questions or comments on Amendment 17? Is there a motion for approval?

Mr. Klobukowski: So moved.

Mr. Kuhlman: Second anybody?

Mr. Hoewing: Second.

Mr. Kuhlman: All in favor?

All: Aye.

Mr. Kuhlman: Motion carries unanimously. Amendment 18 collections of fines and penalties. What we are doing here is removing the words “as said the offender shall upon conviction be committed to the County jail on failure to pay such fines and forfeitures until the same shall be paid with costs” and also removing by this subtitle of this article or, and the reason for this again it was Alan, it don’t happen anymore.

Mr. Wright: We can’t throw somebody in jail because they haven’t paid their taxes.

Mr. Kuhlman: Ok any questions or comments? Hearing none I entertain a motion for approval.

Ms. Gruber: Motion to approve.

Mr. Kuhlman: Second anybody?

Mr. Hoewing: Second.

Mr. Kuhlman: All in favor?

All: Aye.

Mr. Kuhlman: Carries unanimously. Amendment 19 – Jurisdiction of Officials, County payments for street maintenance, again this is a total removal of this whole paragraph because it doesn’t happen anymore, any questions or comments on this?

Mr. Wright: We have a whole different section and it is under State Law for revenue sharing that is why this is obsolete.

Mr. Kuhlman: Ok thank you. Is there a motion on this?

Mr. Hoewing: Motion to approve.

Mr. Kuhlman: Is there a second?

Ms. Gruber: Second.

Mr. Kuhlman: All in favor?

All: Aye.

Mr. Kuhlman: Motion carries unanimously. Amendment No. 20 dealing with the Planning Commission. If I remember correctly this totally deletes the one sentence where it says they can be paid. Any questions or comments? Hearing none entertain a motion of approval for Amendment 20.

Mr. Hoewing: So moved.

Mr. Kuhlman: Is there a second?

Mr. Klobukowski: Second.

Mr. Kuhlman: All in favor?

All: Aye.

Mr. Kuhlman: Motion carries unanimously. Amendment 21 dealing with the Parks Board and Recreation and Streets, Board of Parks, Recreation and Streets, sorry. It removes some verbiage in paragraph D, removes some verbiage in paragraph 2 and adds that they will provide recommendation to the Commissioners with regards to certain functions, it adds language in paragraph 5 that in addition consultations will include any programs relating to new or proposed streets in order to ensure vehicular and pedestrian safety, adds that they are going to be acting as a Tree Advisory Board and I believe that is mandated by State Law to have that in there now Wade isn’t it.

Mr. Yost: No.

Mr. Brown: Well with the addition of the word advisory.

Mr. Yost: Right.

Mr. Kuhlman: Yeah.

Mr. Wright: Most of these sections we just want to make clear it is Advisory.

Mr. Kuhlman: It removes language in number 11 about adopting rules and regulations and inserts language in 11 that says act as a park permit appeal board for any person aggrieved by a park permit denial. The park permits will be handled by Staff now instead of the Parks Board. Any questions or comments? Hearing none is there a motion for approval of Amendment 21?

Ms. Gruber: Motion to approve.

Mr. Kuhlman: Is there a second?

Mr. Hoewing: Second.

Mr. Kuhlman: All in favor?

All: Aye.

Mr. Kuhlman: Motion carries unanimously. Amendment 22 dealing with the Board of Appeals. Alan go through this one will you?

Mr. Wright: We are changing this to Board of Appeals from Board of Zoning Appeals, it is a conflict discrepancy some places in the Code it refers to zoning, some place just Board of Appeals and they do have more authority or responsibility than just zoning so we are taking out zoning, we are taking out compensation in that first paragraph, and we are adding language to make it clear that they are the authority to hear and decide appeals made by an Administrative Official of the Town of Poolesville, which causes a person the feeling to be aggrieved, just changing the language a little bit.

Mr. Kuhlman: All right is that it?

Mr. Wright: Yeah that was basically it.

Mr. Kuhlman: All right any questions or comments on Amendment 22? Hearing none I entertain a motion for approval of Amendment 22.

Mr. Hoewing: So moved.

Mr. Kuhlman: Is there a second?

Ms. Gruber: Second.

Mr. Kuhlman: All those in favor?

All: Aye.

Mr. Kuhlman: Motion carries unanimously. Amendment 23 deals with the Sign Advisory Board, the original language said that the President of the Commissioners should appoint 3 residents to the Sign Advisory Board with a confirmation by the Commissioners would change this to read as the other boards, that the Commissioners of Poolesville shall appoint 3 Commissioners and also removing where it gave the President the right to make the appointment and fill vacancies, now it is up to the as it should be the entire Body of Commissioners. And removing that they shall receive such compensation, all right is there any questions or comments on Amendment 23? Hearing none is there a motion for approval?

Ms. Gruber: Motion to approve.

Mr. Kuhlman: Is there a second?

Mr. Hoewing: Second.

Mr. Kuhlman: All in favor?

All: Aye.

Mr. Kuhlman: Motion carries unanimously. Amendment 24 dealing with this Community and Economic Development Committee. As Mr. Pierce pointed out in his testimony it does set out in great detail and this was drafted by the Community and Economic Development Committee to be included. Anybody have any questions or comments on Amendment 24.

Mr. Klobukowski: As I recall we pared down the language significantly from what they had provided.

Mr. Kuhlman: Yeah about half of it. I have one question on paragraph 2, "review and implementation of measures that can be taken to ensure the survival and success of existing businesses in Town", who approves that measure. I mean the way reading this they can review and implement any measure they so desire, I think there should be an approval process or somebody have approval of their implementation of that measure.

Mr. Hoewing: Yeah you might just say review and recommend for implementation.

Mr. Kuhlman: There you go.

Mr. Hoewing: That way they have to come back to us and say we have got some ideas.

Mr. Brown: Review and recommend implementation to the Poolesville Town Commissioners.

Mr. Hoewing: Well that might be a given but if it is not...

Mr. Yost: Probably because that paragraph preceding that does say to assist the Town Government.

Mr. Kuhlman: Ok so what language are we writing down over there?

Mr. Hoewing: I would just say review and recommend for implementation measures that can be taken.

Mr. Kuhlman: He is shaking his head so that is what he has got written, is that ok with you Jim.

Mr. Brown: Fine.

Mr. Hoewing: That is a good catch. And the other thing I would ask and it is probably not significant but it is a point Bob raised and he is right, this is the only Commission that does have a specific funded by appropriation language in it, I mean I want to see it funded, but on the other hand why do we have it here and not have it in the other Planning Commissions, the other Advisory Commissions?

Mr. Yost: They don't spend money.

Mr. Hoewing: Well the Planning Commission does.

Mr. Yost: Well they do you are right a little bit.

Mr. Hoewing: I am not against it, I am just asking the question that is all. If nobody else has a problem with it I am not particularly troubled by it.

Mr. Kuhlman: Ok anybody else have any further comments or questions.

Mr. Klobukowski: What was the language how it is going to read again, review and recommend what?

Mr. Yost: For implementation.

Mr. Klobukowski: Ok.

Mr. Kuhlman: Ok so we need a motion on the Amendment that we just offered first.

Mr. Hoewing: I move adoption of the Amendment I just offered, which I can't remember what it was now but...

Mr. Klobukowski: Second.

Mr. Kuhlman: All right all in favor of adopting the Amendment signify by saying aye.

All: Aye.

Mr. Kuhlman: All right that motion carries unanimously. Now we need a motion to adopt Amendment 24 as amended.

Mr. Hoewing: I so move the adoption.

Mr. Kuhlman: All right is there a second?

Ms. Gruber: Second.

Mr. Kuhlman: All right all those in favor?

All: Aye.

Mr. Kuhlman: Motion carries unanimously. Alan do we need, is that good enough or do we need a motion for the whole thing now?

Mr. Wright: I think you are fine.

Mr. Kuhlman: Very good Wade what is the process we got to go through now, what is going to happen?

Mr. Yost: We begin weekly publication in the Gazette of this Charter for 4 weeks, it will hang on the wall for 42 days and if no referendum is submitted by then on the 50th day it becomes law.

Mr. Kuhlman: Very good. All right any Commissioners have any question of the process? All right hearing none we will move on the Alternative Energy Ordinance No. 178. All right we have had 2 public hearings over the past year I guess, a couple work sessions, Planning Commission has devoted a lot of work to this, we received a fair amount of testimony for and against basically the windmill, the rest of it was solid. We have Ordinance 178 drafted is there anybody that has any questions or comments about Ordinance 178 besides me.

Mr. Hoewing: I couldn't find my copy of it but I thought I remembered when we talked about residential we were going to allow roof mounted but I don't remember whether we said they could, they had a height restriction above the roofline.

Mr. Yost: Yes.

Mr. Hoewing: We did what was that.

Mr. Yost: Does everybody have their copy?

Mr. Hoewing: And the other thing I am wondering about is I have done a lot of research on those units since the last meeting and it is amazing how far they have come, you can get a 95 pound unit, that is all it is 95 pounds with a 6 foot wide fan on it that will generate power at 2 miles an hour.

Mr. Klobukowski: That is the Honeywell.

Mr. Hoewing: Yeah there is also one that is a vertical version but my point was do we have some kind of restriction on how big it can be this way and how high it can be.

Mr. Kuhlman: On the rooftop?

Mr. Hoewing: Yeah.

Mr. Kuhlman: Yeah cannot exceed 10 feet above the peak of the roof and must not exceed beyond the sidelines of a structure, so if it is a 18 or 20 foot wide townhouse

it could be 18 foot diameter blade. No it couldn't it could only be 10 feet because it can't be over 10 feet above the roof.

Mr. Hoewing: On the other hand the vertical units actually are believe it or not they look like fan blades that are twisted, they can go up 15 feet they are actually vertical so I am not saying I, I hadn't really thought about it until I started really looking at those again and they actually the last even 5 months they have evolved those vertical ones didn't really exist very much but now they are out there, so I am just asking us to think about it, I don't think we are going to get a lot of people because they cost \$4,500.00 per unit and even though at 2 miles an hour they do generate power it is not very much at all, it takes 15 to 20 miles for them to generate enough to really make a difference in your power bill, so I suspect we are not going to get too many people ever applying for them, but even so this would be in residences on their roofs and pretty prominent.

Ms. Gruber: Well also as you said it's a developing technology that in just last the 5 or 6 months is to limit it would be wrong.

Mr. Hoewing: The other thing I am wondering about is again residential we also approved pole mounted.

Mr. Kuhlman: Recommended not approved.

Mr. Klobukowski: Yeah we talked about that.

Mr. Hoewing: We haven't approved them yet.

Mr. Kuhlman: We haven't approved any...

Mr. Hoewing: No I know that but we recommended the approved version or version we are going to approve tonight pole mounted which was 50 feet right.

Mr. Hoewing: The monopole is 50 foot and a roof-mounted system is 10 foot and the description is from the base of it to the tip of the highest blade.

Mr. Hoewing: What I am wondering about in the 1/3 acre especially, 50 feet is a lot it is going to be hard to locate it somewhere because we have a restriction on it not being able to fall over somebody else's property line essentially right that is what our requirement is, I guess we should also say that it shouldn't be able to fall inside the house, if that is true then essentially it is going to be almost impossible to locate them on the 1/3 acre I would think.

Mr. Klobukowski: If you go with a 50 or the other type there is always a danger it is going to fall on your house or your neighbor's house.

Mr. Hoewing: I don't think it is going to fall.

Mr. Klobukowski: Well the thing is you could get we have had severe weather here where things have fallen apart, one garage was moved off its foundation, we had a tornado that went down Elmer School Road, we had at the Jamison Real Estate Offices and we had a lot of tree wreckage throughout the whole Town. But I think there is an issue here we are not really looking at and we need to I think focus on that and when you look at the wind chart, the wind chart is for a 50 meter tall turbine, 50 meters, that is what the wind chart is for, that is for this area by the USGA or whoever it is NOAA, it is 164 feet and basically what it says, its negligible there is not enough wind to sustain it, now you could argue yeah there is one up on Cattail there is another one in Barnesville but the property areas are different number one, number two there is other issues with respect to flutter, the safety, I think the one gentleman talked about during ice storms ice falling off or flying off,

blades coming apart, you say it will never happen, well never say never, never say always, things can happen but I would think one of the things would be is like what Mr. Bachman said in his testimony about having something certified that that thing is going to actually do something, its one thing to allow the public to go out and do as they want, it is another thing to go out and say do as you want with no hope of ever gaining a benefit out of it, deriving a benefit out of it, and I think Mr. Bachman raised a lot of valid points as did one of the other gentlemen who testified and I have talked with many of my constituents residents around and they really don't want to see a forest of monopoles or wind mounted turbines on roofs throughout their development. So its like I know I am one of the ones who pushed this but at the same token if in fact we don't have the wind power here to sustain something and let me mention one other thing I went down to the home show that was held at the soccer complex back in February there was no one there with wind power, no one, they had solar and they had geothermal but there was no wind power which tells me that if there was a market here for it, if they thought it was viable, they would come in and offer it but to see no one there in the entire soccer complex sort of tells me something.

Mr. Hoewing: Bob raised two points overall, one was that they should have a site plan which if you look at our requirements we actually do in effect require a site plan so I don't think that is valid and I agree they should have a site plan, but I think we already require that, on your previous --- though Jerry which Bob also raised, I really think that you can carry that to a logical end and you would be essentially saying I would need to be reviewing the business plans of anybody who comes into Town...

Mr. Klobukowski: What part do you say that is?

Mr. Hoewing: You need to be reviewing the business plans of anybody who comes into Town because if you are going to say that somebody comes in and can't prove that a wind generator is going to generate enough power for me to make it worth my while to invest in it then why is that different from a pizza parlor when they are coming in saying I want to do a pizza parlor, well you have already got 3 pizza parlors I think we should look at your plan because it is a waste of our time to go through this and approve this, I don't think it is our responsibility to do that. It is our responsibility to make sure it is safe and we think it fits that the rules are followed with site plans and that kind of thing and I think we try to do that, I do still have concerns about the residential area 1/3 and 1/2 acre.

Mr. Kuhlman: I agree with you and I look at it this way, if you look at take Westerly for example, most of those homes over there right now are lets say \$300,000.00 to \$450,000.00 if somebody comes in here and wants to put on a 2 million dollar addition on that house the only thing we are going to look at is the setbacks, the lot coverage, and if they want to put a 2 million dollar addition that they will never get their money back that is their business, it is not our business to sit there, it is not our business to sit there and say you shouldn't have a tennis court in your backyard because you will never get your money back, you shouldn't have a hot tub in your backyard because you will never recoup your investment, I mean I could pretty much vote against any windmill going up in Town right now tonight ever, but I am

willing to listen and don't bring this argument to me that its not economically viable because I don't feel that is the Town's business, it is the homeowners business.

Mr. Klobukowski: Well the thing of it is though when it says here according to the National Renewable Laboratory it has no or low wind measured at 150 feet and you are talking about allowing somebody to put something at 50 feet.

Ms. Gruber: Jerry if your neighbor wants to go out and buy a big old hummer does it make sense with gas prices, insurance, fuel mileage...

Mr. Klobukowski: That is true that is their economic decision but we are talking about something totally different here. In my opinion...

Ms. Gruber: Not in the context you are placing it.

Mr. Klobukowski: Well you are saying about going out and buying a hummer not too many people are buying them and as a matter of fact they are not being manufactured the market has already done that. But the same token when you have things that say when you have people come up and say the site plan, they say it is going to be economically viable, a lot of people jump at things just because it is the latest fad to do and I don't think that is totally the right way to go so.

Ms. Gruber: But you can't tell them you can't do it. I mean you can give them guidelines and you can...

Mr. Klobukowski: When you talk about the 2 million dollar addition on the home, people are going to court over that and I think one guy has to tear his down, down in Bethesda.

Mr. Kuhlman: Only if it exceeded the setback.

Mr. Klobukowski: Well I think it was more than that, it was what they calling the McMansions or the Mega Mansions down there.

Mr. Kuhlman: No that wasn't an addition that was a torn down house.

Mr. Hoewing: But I think we've gotten to this point now where I believe it is a consensus for doing something with wind generators at least in the business area, I don't know about the residential but so arguing about whether or not it is economical at this point I think is water under the dam I think we are passed that. If there are still concerns about health and safety and all those which I again can't believe since we have already said it can't be any unit would fall over a property line so it can't hit somebody and you can make an argument about anything you are right, anything can be unsafe but you don't prohibit things because they potentially could have an accident I mean as long as they are built safely and we have requirements that said they've got to come in with the Montgomery County certification that is has been installed correctly, so it is not like we said --- can come in and do this. My only issue is the residential and it is primarily believe it or not the monopoles, I am not so much, I think the roof thing I don't think most people are going to do it because the cost is way too high to justify the return but those looking at them are small enough that I think over time there won't be that many number one, and they wouldn't be that obtrusive but a monopole is pretty doggone high, that is 50 feet properly we are saying we are going to allow and Jerry is right if it gets below that it is way more than useless so I don't think I could support monopoles but I could support a roof mounted unit, along the lines that we have in the...

Mr. Kuhlman: Well let me ask a couple questions here so we can possibly get to here. Wade number 3C wind generator standards, number 1) all wind energy

systems must be reviewed and sealed by a registered structural Maryland professional engineer. If the systems are sealed by a factory engineer is this good enough rather than make, but I don't see that it says that.

Mr. Yost: No and that was the intent of it when we wrote it because that question actually came up.

Mr. Kuhlman: If that was the original intent I would like to see the language clear that that is allowed, because the way I am reading this right now, if John goes and gets his thing and its not sealed by a professional engineer he is going to have to go out and pay a professional engineer to come reinvent the wheel, study the whole thing and seal it, but if it is done by a professional engineer at the manufacturing company I think we should accept that. And on page 6 number 17, no small wind energy systems, what do we mean by small, is there a large.

Mr. Yost: Yes. It is defined as 100 kW or less for onsite power use.

Mr. Klobukowski: That is the small, 100 kW or less?

Mr. Yost: Yes. In the first of the definitions it spells it out.

Mr. Hoewing: And as long as you have a definition you can always do that refer back to it.

Mr. Kuhlman: Ok I see what you are saying now. And number 20, construction of wind energy systems are for onsite consumption or credit, I think that should be all systems.

Mr. Yost: It does say that as you go through each system it does say that. Specifically for each one it does say that.

Mr. Kuhlman: Ok and then the last question I really have which probably should generate some discussion, Mr. Bachman raised an issue about the permitting process being different and why are they different.

Mr. Yost: Because when we began this process that was some of the initial language that we had throughout the document than as we got to working on the commercial and CBD we wanted to tighten it up a little bit and make sure there was a site plan filed and it went through the review process with the whole Planning Commission and not just be signed off like a shed or a fence is by the Chairman of the Planning Commission so it was basically an oversight as we went through because we left the wind energy systems alone, they said no they weren't going to use them so it wasn't necessary to revise that language, you guys changed that or in the process of considering changing it so now you should consider that also I believe.

Mr. Kuhlman: Now we fixed it so they don't have to file a special exception in the CBD right?

Mr. Yost: Correct.

Mr. Kuhlman: Ok that is what I remember, and that was for the solar.

Mr. Yost: Right.

Mr. Kuhlman: Ok. All right so does anybody have any recommendations or changes they want to discuss to this Ordinance.

Mr. Wright: We were just discussing that with roof mounts in the 1/3, 1/2, 3/4 zone there is a provision in the definition section that says you cannot extend above 10 feet above the roofline, but we should on the Chart we should put 15 beside roof mount for each of those which references the 10 foot limitation.

Mr. Brown: That is a good idea.

Mr. Yost: But first need to see if there is going to be across the board on it, wherever they are, not if they get to be allowed.

Mr. Hoewing: But the requirement about setbacks in terms of 50 foot from any side yard or backyard boundary is still...

Mr. Wright: Right this is just for roof mounted.

Mr. Klobukowski: So we are going to allow monopoles in what, that is what I am trying envision...

Mr. Brown: The next one. We are good with roof mount then with number 13.

Mr. Kuhlman: All right as I asked is there anybody that wants further discussion on something.

Mr. Brown: Link were you going to make a recommendation.

Mr. Hoewing: I think we ought to take monopoles out for especially 1/3 and 1/2 the roof mounts fine but not monopole.

Mr. Brown: Ok monopole and traditional are we spelling out...

Mr. Hoewing: Either one I think a tower in a development is too much.

Mr. Brown: So leave it at 3/4 take it out of 1/3 and 1/2. How many 3/4's are there in the Town?

Mr. Hoewing: Not too many but...

Mr. Yost: They are half acre for the upper top of Brightwell Crossing which was 3/4 now 1/2.

Mr. Hoewing: There aren't physically that many 3/4's.

Mr. Yost: Not many.

Mr. Brown: 3/4's is pretty big.

Mr. Kuhlman: All of Hunters Run.

Mr. Hoewing: Well I think for all residential if that is the case...

Mr. Kuhlman: I mean under this scenario right here that we have been looking at and dealing with almost every home in Hunters Run could have a windmill.

Mr. Hoewing: Yeah well that wouldn't be right either because why would you say you couldn't do it in 2 other developments. So roof mounted I think would be fine but not monopoles that is the only change at this point, everything else I am fine with.

Mr. Wright: So your motion is strike all three all through residential.

Mr. Hoewing: Yeah in residential but roof mounts the way we have it defined here and they way they are restricted in terms of height, like I said when I looked at the technology it has advanced so much those things actually are generating pretty good power.

Mr. Kuhlman: So you are basically taking the ground mount out of all the residential zones.

Mr. Hoewing: Right that is the only change.

Mr. Kuhlman: Ground mount comes out.

Mr. Brown: Ground mount covers monopole and traditional.

Mr. Kuhlman: Taken out of all the residential zones ok and leaving roof mount in all but the CBD, are you taking the ground mount out of the RDT because those are residential zones basically also.

Mr. Hoewing: What is the housing requirement there though for the acreage, he still has to have 25 acres in the RDT correct, I think the RDT is fine, I mean we don't have

that many RDT, I mean we have RDT but in terms of how many houses you could have on that you don't have a lot.

Mr. Kuhlman: Yeah maximum height in the RDT would be 60 feet. All right any other changes or deletions or whatever?

Mr. Brown: Was everybody satisfied while I was in a personal recess, was everybody satisfied with the language of in terms of the approval process for it, I kind of left right in the middle of that one, was everyone satisfied with how it has to be approved.

Mr. Yost: Can I make a recommendation that on number 7A-1 requirements that it says no energy systems shall be erected, altered or relocated without a site plan approval issued by the Planning Commission. So strike a permit being and just put site plan approval and then that brings everything else in the Code already that they have to comply with.

Mr. Hoewing: Right.

Mr. Klobukowski: Without a site plan being issued by the Planning Commission that is what you are saying, does that cover us Alan?

Mr. Wright: It is basically the equivalent.

Mr. Brown: Either way it has to be approved by the Planning Commission.

Mr. Yost: Right versus the permit itself, if they do that they have to have a survey of the property, all the buildings listed, has to be commercial property, has to go to a public hearing, so it is a whole host of things that come into play that is already placed in the subdivision regs.

Mr. Klobukowski: Is the site plan issued or is it approved by the Planning Commission?

Mr. Kuhlman: All right how are you going to change that on page 4 C1 sealing for the engineer?

Mr. Hoewing: Where did that come from Wade again did that come from one of the other ---.

Mr. Yost: Possibly I am not for sure. Everybody wanted at least a seal from a professional engineer, it may be John Strong actually that put a structural engineer in there and Maryland also.

Mr. Kuhlman: We are going to vote on this tonight what do you recommend any changes to.

Mr. Yost: Well if we strike Maryland.

Mr. Wright: That is what I would say would be the simplest way to go, take out Maryland to allow...

Mr. Kuhlman: Ok that would suit me.

Mr. Klobukowski: By a registered what?

Mr. Kuhlman: Registered structural professional engineer.

Mr. Yost: Just strike Maryland.

Mr. Hoewing: Is there such a thing as a structural professional engineer, there is ok.

Mr. Kuhlman: You haven't done that.

Mr. Hoewing: What being a structural professional engineer no I am not.

Mr. Kuhlman: I'm surprised.

Mr. Hoewing: This would allow then us to have John certified them correct. If the Planning Commission wanted to...

Mr. Yost: Well they are going to have to have it certified by somebody, they could pay John if they wanted to but no like the manufacturer is going to have a sealed engineer but he wouldn't qualify necessarily depending on where the structure comes from.

Mr. Kuhlman: That is what I was getting at Link this thing might be built in Illinois and if you have it shipped in then you got to go pay a Maryland engineer to look at it, read the documents or whatever to stamp a page.

Mr. Hoewing: And a seal means a stamp on it saying I have reviewed this and this is a structurally sound device or something is that what it is.

Mr. Yost: Yes that would be what it is.

Mr. Brown: A seal is a legally binding statement.

Mr. Hoewing: Ok all right.

Mr. Kuhlman: Ok anything further?

Mr. Wright: The amendments are approved by acclamation.

Mr. Hoewing: That is fine with me.

Mr. Kuhlman: Jerry you have anything else?

Mr. Klobukowski: I am trying to figure out this structural engineer thing. The seal I am thinking of is somebody seals it and prints it you are talking about a seal on a document. I think there must be a seal of all energy systems, I think you are talking about the plans or something you are talking about the design to me it says systems, I don't know...

Mr. Kuhlman: It means that Jerry Klobukowski did (inaudible) professionally designed and engineered.

Mr. Klobukowski: Well there are a lot of guys out there who do stuff in their basement that you would be surprised.

Mr. Kuhlman: Ok any amendments you want to offer or anything else you want to discuss Jerry.

Mr. Klobukowski: Well I think Mr. Bachman and the other gentleman made a lot of valid points there and I think that they ought to be given more consideration than they are.

Mr. Hoewing: I looked at Bob's comments Jerry and I think the two key ones he made were one some kind of a site review and secondly the issue of whether these are economically justified and I think that second one I just don't agree at all, it is not worth further consideration, we have talked about it, it is wrong, frankly it is wrong, but the first one yeah and I think we have done this, we have made this tighter with respect to site plans and he asked for that.

Mr. Klobukowski: He made another point about well going in and people getting money to put this up and one minute you talk about wasting taxpayer dollars and one of you mention that saying people are going to apply for this and then they are going to find out still is it going to be economically viable.

Multiple Conversations Taking Place

Mr. Kuhlman: But Jerry that is all personal opinion there are people out there that are still telling me that the State ought to be hung for giving us money towards the construction of this building, to the construction of the Skatepark, well everybody is entitled to their opinion.

Mr. Brown: That is why we get to vote for our Congressmen and Senators.

Mr. Kuhlman: All right Jim do you have anything else?

Mr. Brown: The only changes that I would like to make are the ones we have already proposed.

Mr. Kuhlman: Ok Link?

Mr. Hoewing: I am done with all the changes.

Ms. Gruber: It is good.

Mr. Klobukowski: On the RDT is that strictly monopole or are we saying...

Mr. Yost: Anything goes in RDT.

Mr. Klobukowski: Anything goes.

Mr. Kuhlman: Ok so we have need a motion to approve the amendment of removing ground mounts from the 1/3, 1/2 and 3/4 acre zone.

Mr. Hoewing: I so move.

Mr. Kuhlman: Is there a second?

Mr. Brown: Second.

Mr. Kuhlman: All those in favor of that amendment.

All: Aye.

Mr. Kuhlman: Motion carries unanimously. There were no other amendments offered?

Mr. Hoewing: We changed that seal.

Mr. Kuhlman: Oh yeah. Need a motion for approval of on page 4 paragraph C number 1 removing the word Maryland.

Mr. Hoewing: So moved.

Mr. Kuhlman: Is there a second?

Mr. Brown: Second.

Mr. Kuhlman: All in favor?

All: Aye.

Mr. Kuhlman: Motion carries unanimously. That would be the final amendment...

Mr. Hoewing: No page 3.

Ms. Gruber: Page 3, 7A1, taking out permit and changing it to site plan.

Mr. Yost: It should read relocated without Planning Commission site plan approval.

Mr. Klobukowski: We ought to have this on the board and type it in as we are talking and then we could see what we are talking about.

Mr. Brown: Say again the language for 7 A1.

Mr. Yost: How bout no energy systems shall be erected, altered or relocated without Planning Commission Site Plan approval.

Mr. Hoewing: I move that amendment.

Mr. Brown: I second it.

Mr. Kuhlman: All in favor?

All: Aye.

Mr. Kuhlman: Motion carries unanimously. We are looking for ...

Mr. Hoewing: I move approval of the overall Ordinance 178 as amended.

Ms. Gruber: I second.

Mr. Klobukowski: I have one question again this thing with the seal are we talking plans, wind energy system must be reviewed and sealed by...

Mr. Kuhlman: Jerry when you buy a piece of electronics at your house it says UL approved, that is what we are talking about, if an engineer licensed in any state puts his stamp on the plan...

Mr. Klobukowski: See that is just the intent I understand if you buy a lamp and it is UL approved but I think the intent here was that it was structurally well the structural assembly of the item maybe that is what I am getting hung up on.

Mr. Yost: Well that is where County Inspectors would come in.

Mr. Klobukowski: Once it is assembled somebody says yeah all the pins are in the right place...

Mr. Yost: And that is the County that does that.

Mr. Hoewing: It is actually in the Ordinance.

Mr. Klobukowski: Ok.

Mr. Hoewing: The construction of the base has got to be approved as well by the County.

Mr. Klobukowski: Ok one other question, does the County in fact have somebody who can do that, obviously because there are, all right.

Mr. Kuhlman: Ok we have a motion on the floor to approve Ordinance 178 as amended and we have a second, are there any questions or comments?

Mr. Klobukowski: I will just make a comment that I am not exactly happy with everything but I am happy we are moving with something so I will support it even though I sort of have reservations about some of this stuff of what is going to happen, I really do.

Mr. Kuhlman: I echo what you are saying 100%.

Mr. Hoewing: Yeah it is a chance, but it is a chance worth taking so lets try.

Mr. Kuhlman: Ok all those in favor of the motion to adopt Ordinance 178 signify by saying aye.

All: Aye.

Mr. Kuhlman: Motion carries unanimously, Speelman get out of here. All right our last agenda item is Ordinance No. 180 to add requirements for the underground storage tanks. Wade can you give a little history here.

Mr. Yost: Sure. We started this process once MTB was actually a enterprise in Town, official contamination the State came in put in several, monitored several wells around the area, found that only one was contaminated with a pretty high level, another one down the street had a very small level, the Planning Commission took a proactive step against this to make sure we were protected and we took a lot state language of high risk ground water areas and adopted that into our whole the Town itself, so any tank that is put underground within the Town has to go by the State's high ground water risk area tank requirements.

Mr. Kuhlman: Ok any questions or comments?

Mr. Klobukowski: I guess I question it sort of like when we do this when we adopt it and the State comes in I have read Mr. Roberts letter back to MDE concerning you know them saying he has to do something within 30 days and yet them taking 10 months to act on it, I guess my point is it is like the wells too they go out tell you oh yeah you can permit this well and you can run it but if we MDE screwed up you are still liable for it, when we adopt this do we in fact able to rely on the State...

Mr. Yost: We will still rely on the State as much as we rely on them today. Some of the issues it has with the plan in enforcement issues will be the obligation of the State still, the only things that changes are going to be the requirements of the high groundwater risk area that they will not enforce in this area, we will have to enforce, which will be the installation of ground monitoring wells on four locations around the property, they have to do annual sampling, and the samples cannot go over whatever standards were established by the State, they have to give us all the documentation, all the records, and we will be able to inspect anytime we want, so that is the only thing that has changed, we have actually increased those demands that the State does in other areas, they won't do here so we have to do that ourselves, otherwise we rely on the State for those.

Mr. Klobukowski: And the State doesn't have any problem?

Mr. Yost: No we have been working with the State, we actually met with them.

Mr. Kuhlman: Any further questions or comments? Hearing none is there a motion for approval of Ordinance No. 180?

Mr. Hoewing: I move the approval of Ordinance No. 180.

Mr. Kuhlman: Is there a second?

Mr. Brown: Second.

Mr. Kuhlman: Any questions? All those in favor of the motion signify by saying aye.

All: Aye.

Mr. Kuhlman: Motion carries unanimously.

Committee Reports

Mr. Kuhlman: Very quickly Planning Commission report.

Mr. Coakley: We meet this Wednesday.

Mr. Kuhlman: Parks Board.

Mr. Brown: Parks Board I am not going to be timed here ok, these are important things that we cover. First of all at Brightwell Crossing it appears that they are going to have their grand opening on May 1, they gave us a Tom Kettler made a presentation on the signs going in front of the main entrance on Brightwell Crossing, the Parks Board had some I will call it consternation about the height of the sign and it is going to be pushed to the Planning Commission for them to check it out, we sent it with a recommendation for them to particularly review the height of the middle part of the Brightwell Crossing entrance sign.

Mr. Klobukowski: Why wouldn't that go to the Sign Review Board?

Mr. Yost: Entrance features are part of the site plan, the architectural aspects of it, they have the Planning Commission has full authority over it, it is in our Code.

Mr. Klobukowski: Ok they have full authority but it doesn't mean it is going to, you can turn around and override the things that are in the sign ordinance.

Mr. Brown: It's not overriding that.

Mr. Yost: They are a little bit different than what, they are different than what is in the sign ordinance.

Mr. Klobukowski: Well why do we have a sign ordinance. Mr. Kettler knows what the sign ordinance is so why doesn't he just comply with it regardless, why is this going to the Planning Commission at all period.

Mr. Kuhlman: It's the law.

Mr. Klobukowski: I understand well it's a law but the thing is if you have a requirement that is in a sign ordinance that says you can't be any higher, wider, etc, than this, why won't he just comply.

Mr. Yost: Its what's a law, what's a fence, what's a sign, it is not cut and dry, take a look at the entrance feature and all the entrance features in Town don't comport exactly to what the sign ordinance says.

Mr. Hoewing: So this is actually Wade I haven't looked at this but it is more like a wall that comes up to it.

Mr. Yost: Yes exactly.

Mr. Brown: Just like Stoney Springs.

Mr. Yost: Yes an entrance feature.

Mr. Hoewing: So it is not just a plain sign.

Mr. Yost: The initial design he had fence board, like a black fence, like a --- type thing on either corner, that was the deal, then Stoney Springs put the wall up and he said they have got a wall, I need a wall.

Mr. Brown: It was a good presentation and anyway after Mr. Kettler got done making that presentation he had also made a presentation about working on new Town signage and getting a game plan together that made a lot of sense, so that was a good presentation, then we also approved the Dr. Dillingham Park Site Plan, we put off reviewing the Master Plan and that was the end of the Parks Board Meeting.

Mr. Klobukowski: What do you mean by reviewing or new Town signage?

Mr. Brown: He made a recommendation and the Parks Board was in agreement that if you look at all the entrance signs coming in and out of the Town that some are dated, some are not very well readable and he recommended putting together a developing some sort of game plan for creating signage that is consistent and matches the character of the Town, he did a presentation on was that you that put together for Luray?

Mr. Yost: No Tom did it.

Mr. Brown: I will give you a copy for the Town of Luray and show you how they matched all their entrances to their Town Hall sign, to banners that potentially would be hung depending on whatever the occasion was say on our new light poles that we are going to be putting out here along side Whalen Commons, it was just a thought process to start putting together a plan that potentially could bring together all the different signs that are municipal signs throughout the town. No money recommended, no timeframe just a desire to see something better, sparking an interest. Anyway that was it.

Mr. Kuhlman: Ok thank you very much. CEDC?

Ms. Gruber: Didn't have a quorum in March, meet on April 24th.

Town Manager Report

Mr. Kuhlman: Town Manager.

Mr. Yost: We are flushing the hydrants this week all around Town we have put notices up do not wash white clothes if the hydrant flushing is occurring in your neighborhood that day, potential for water spots or staining can occur. You can see the progress on the bandshell, they are doing very well they are right on target, we are looking at mid to late June for them to be totally complete. The Skatepark also on schedule, the contractor has the humps all built up with no contact with the

skatepark board folks, hopefully next week they will mobilize and start pouring the frames for them to go to work on the concrete.

Mr. Kuhlman: Anything else Sir?

Mr. Yost: No.

Mr. Kuhlman: Questions for Wade?

Mr. Klobukowski: Yeah what is the depth of the Stoney Springs, Brightwell Crossing wells where the pump depth is set at?

Mr. Yost: They are both around 500 foot, the pump depth I need to look that up I don't recall.

Mr. Klobukowski: All right just email it to me if you would please, thank you.

Citizen Forum

Mr. Kuhlman: All right any hearing from the citizens on open forum? Seeing no hands I entertain a motion for adjournment.

Adjournment

Mr. Hoewing: So moved.

Mr. Kuhlman: Is there a second?

Ms. Gruber: I second.

Mr. Kuhlman: All in favor?

All: Aye.

Mr. Kuhlman: We are adjourned thank you.