

COMMISSIONERS OF POOLESVILLE  
MEETING OF OCTOBER 5, 2009

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

**Call to Order**

Mr. Kuhlman: All right good evening ladies and gentlemen we will call the October 5, 2009 Commissioners Meeting to order. Let the record reflect that all Commissioners are present as well as Town Attorney and Town Engineer. Our first agenda item will be a Pledge of Allegiance all rise, Jerry please.

**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 very much. Announcements I know Link you have something.

Mr. Hoewing: Just wanted to spend a second to acknowledge we had a focus group this weekend we basically sent out a notice several weeks ago, went in the newsletter and advertised it and put it on the web bringing a bunch of citizens together to begin the process of starting to revise or look at the Master Plan, we are required to under law, and it was a very good session, good starting session, a lot of interesting ideas, good candid discussion and it is just the start of a long consultation process. George Coakley was there and Wade was and I think it was a very good session a good start for the process, it got a lot of ideas already on the table that were I think quite interesting and well worth considering so just wanted to acknowledge those citizens and thank them for coming, it was a very worthwhile effort.

Mr. Kuhlman: All right any other announcements?

Mr. Klobukowski: Yeah I have got a couple 1) I don't know if anybody read the business section of the Washington Post this past weekend really stirring reading but anyway I think I had insomnia I recommend it but they did have a large portion of it devoted to 10 green myths debunked and it talked about going green and myths and reality on a lot of the items where people are considering like upgrades to hybrid cars, use of florescent lights, solar panels, solar heating, etc., etc., and I was recommending that Wade ask the Post so we could have a link to it so if people were interested in reviewing some of this that they be able to look at it. The other thing is, on another thing, on the high school I sent out today a copy of my last years testimony to all the Principals and Cluster Coordinator and the PTA Presidents and I also met with the High School PTA President, the Cluster Coordinator, and 2 other members of the high school PTA to get a plan together to start to march forward to get the other 9/10ths of the High School, the rest of the modernization that should have accompanied the science classroom addition and I

will be working with them here in the future to come up with a strategy to make our case plot our case before the Board of Ed and the County Council, one of the interesting things is we need to look at and raise with the Board of Ed is the Back Score, we need to have them reevaluate the Back Score based on when it was originally done versus is it still relevant today to today's environment, I think everybody who has been to the high school is very impressed by the facility the science classroom with the exception of me because I am grousing over the fact why didn't they put a canopy on it between the school and the what you call it the addition so that people could stay out of inclement weather when it rains or snows but that is just personal preference of me anyway so we will be working on that in the future as soon as I have my testimony I have input from all the Cluster Principals and the PTA Presidents and the Poolesville Cluster Coordinator I will have my testimony to you folks, thank you.

Mr. Kuhlman: All right anybody else?

### **Approval of Minutes**

Mr. Kuhlman: All right move on to approval of the minutes of September 21<sup>st</sup> is there a motion for approval?

Mr. Brown: Motion for approval.

Mr. Kuhlman: Is there a second?

Mr. Klobukowski: 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 just in general, all right yes Ma'am you need to raise your hand so I can see you.

Ms. Barnes: Linda Barnes 19735 Selby Avenue.

Mr. Kuhlman: Ma'am if you could put the microphone closer to you.

Ms. Barnes: This is in regards to Ordinance 174 on tonight's agenda, which states "special exceptions by requiring that on any residentially zoned property having a shared driveway, any special exception use that entails or may result in the use of the shared driveway by motor vehicle shall not be permitted". Don and I encourage you to endorse an atmosphere of cooperation between neighbors by supporting the following word changes to Ordinance No. 174 to include the definition of shared driveway and pipestem driveways and I will give you a copy of this so you can read it and also in situations where Special Exceptions or a Variance is being considered and involves 1) a shared driveway or 2) a pipestem driveway or 3) situations where ones lots backyard joins the adjacent front lots front yard or 4) other situations where there is potential for dispute a Special Exception or Variance will not be granted without written agreement of all affected adjacent lot owners, the effected adjacent lot owner agreement will be documented in the Special Exception or Variance application, and for situations where Special Exception or Variance is pre-existing a compliance with this Ordinance within blank month is required. Such an Ordinance addresses shared ownership, adjoining ways of pipestem driveways would benefit many Poolesville residents and would prevent the Town from issuing Special Exceptions and Variances, which are appealed through judicial proceedings, thank you for considering our request. I have copies for you.

Mr. Kuhlman: Anybody on anything in general? All right Resolution No. 008-09 the State came out and mandated a month or two ago that each municipality adopt a Debt Service Resolution, the Town has had an Ordinance in its book for eons about debt service and we are going to be forwarding that to the State to make sure that passes mustard. Does anybody want to issue a comment on that? All right Westerly Avenue Swales Contract, Mr. Burch.

Mr. Burch: Tom Burch 19708 Westerly Avenue. I have been a resident 33 years at that address, the neighbors to my left are Doug and Beth Parker and Clair and Jim Kirby, Jim passed in July. I don't recall exactly when the sidewalks was installed in front of my home certainly it was before 2003 and my heart attack but just about the time the grass had come in on the swale after the construction I found it treacherous at best to try to mow my own lawn. I tried doing it with golf cleats that wasn't enough, I ended up with football cleats that wasn't enough and after 2003 and my heart attack I just couldn't do it at all so I have been using a lawn service for the past 6 years because of the severity of the swale. I had written Jim Alsobrook the Town Manager who had gotten the Commissioners about the time the grass came up and I lived first hand with this problem expressing my real concerns about the safety issue of this and I hadn't gone on record saying the expenses I have endured since 2003 to get my lawn serviced. I know that Jim Kirby was as much of a complainant on this issue as I had and I understood that sometimes last winter or spring you finally got some action when he contacted the County or EPA or something like that and seeing Jim walking his golden retriever most evenings I checked with him to find out what if anything he had heard about what was going on and all he had heard was various and --- options, in the many months that this has apparently been debated I have not been contacted, the Parkers have not been contacted and since Jim died in July I know for a fact that Claire has never been contacted. I was aware that some point in time upcoming there was going to be some sort of discussion about sidewalks I don't recall anything being mentioned about swales and it was only good fortune that Conrad Potemra a neighbor and friend of mine in his weekly phone call to Wade contacted me today at 10:30 and told me about the meeting. Claire Kirby cannot be here tonight because she buried her brother-in-law today and I will let Mr. Parker speak for himself but the 3 of us have lived on that street for 70 years, in the future if you have a capital expenditure that is servicing a series of residents complaints which are judged valid after 8, 9, 10 years I really encourage you to try to make some effort to communicate something anything to the homeowners who are affected. Now I understand that there is a plan here to address and correct the situation on 3 houses and make a long story short it sounds like the Kirby's are getting kind of a Cadillac fix, where the Parkers and I are getting kind of a Chevrolet fix. I came up here trying to be non confrontational and judgmental and I had the opportunity to talk to Wade and the Town Engineer here and somebody had suggested we possibly be considered an option for me and perhaps the Parker's if we were confronted with the opportunity instead of just cutting the swale angle differently perhaps it would be somewhat reasonable or acceptable by us to maybe pay for the piping to have the whole thing buried. I know that my yard has got a fair amount of sandstone and the corner right there where that swale meets Westerly and Hoskinson the sandstone is actually visible over a course of about 8 feet so it might be completely plausible that actually the more cost effective fix to the Town would be to bury pipe and fill it in as opposed to constantly coming back and

trying to service the bank because I believe I was patient I went on record many, many years ago I don't want something for nothing, don't want to be unreasonable but I know when the Town came in and put in that sidewalk the laughable patch that was put in between the sidewalk and what used to be my driveway I mean I could have done better by going to Lowes and just bought a bag of asphalt filler and then just throwing the entire bag in without even taking it out and trying to warm it and smooth it. Doug Parker and I both just paid to install brand new driveways last year so certainly I don't want any damage done to something that I have already invested in and in part corrected the problem that the Town had with the sidewalks so I am not being judgmental but I would kind of like to know why there are 3 households all subject to the same problem and there seems to be the Cadillac here and the Chevy there and if there is any way that I could be given at least the cost of what it would cost be for piping I would appreciate it. But at the very least in the future I really encourage you if you have got a long time problem like this particularly one that is going to involve the amount of money that you guys are dedicating to try to fix it I really encourage you to try to communicate with the residents who it affects the most that would just be good.

Mr. Kuhlman: All right.

Mr. Burch: Thank you.

Mr. Kuhlman: Thank you Sir. All right as announced at the meeting before last we had a budget work session last Friday night to look at options on how to deal with the reduced revenue from the State of Maryland for the Highway User Funds, is there anybody that has any comments under that. All right Ordinance 174 dealing with the shared driveways and Special Exceptions, any more comments? Ordinance 175 dealing with the Planning Commission having to review any Special Exception request, Mr. Barnes.

Mr. Barnes: Thanks Don Barnes I live at 19735 Selby Avenue. In regards to post Ordinance 175 I wonder how many Board of Zoning Appeals once the Planning Commission has reviewed and recommended that the Special Exception be approved that that Special Exception gets approved, that would be an interesting fact. I only have one suggestion for this one and I think rather than use the word review and recommend that it might be review and comment. I am concerned it is kind of like your boss coming to you and saying I recommend that you do something and he's in a position to hire you and fire you its like well I really don't like your recommendation I think I will do it my way, I just think it might be better to provide comments to the Board of Zoning Appeals since I believe it is their responsibility and authority to approve Special Exceptions and that is the Body that does that.

Mr. Kuhlman: All right thank you Sir, anybody else on Ordinance 175. Ordinance 176 having to deal with parking of commercial vehicles and other issues? All right Ordinance 177 road construction standards oh Conrad I am sorry.

Mr. Potemra: Conrad Potemra Spurrier Avenue. I just really would like to reiterate on this road construction that you've got to add disparity with these overhead lines and put this in your Code or wherever it has to be again we've got a load of roads with those overhead lines you are putting nice houses in there and its going to look like hell you know you put the line that only Commissioners can have overhead lines might be a little different look because I don't think any of you really want them in front of your place and the other thing is the patchwork roads. Your legacy is going to be Willard Road is

going to be the patchwork that --- made and you got to take control of these roads and have the developer fix these roads, it has got to be part of the Code please.

Mr. Kuhlman: Well the power lines along West Willard Road will be buried under ground with the development of the property.

Mr. Potemra: The ones on West Willard Road will be buried?

Mr. Kuhlman: Yeah they are supposed to be.

Mr. Potemra: I was told they weren't going to be buried.

Mr. Klobukowski: It is a requirement in the Code already that all subdivision...

Mr. Potemra: Not inside the subdivision the actual lines on Willard Road.

Mr. Kuhlman: Yeah.

Mr. Potemra: Ok that will be done.

Mr. Kuhlman: That is what I understand.

Mr. Potemra: Ok that is new input because everyone I talked to said they are not going to be buried.

Mr. Klobukowski: They are not. Wade is shaking his head no.

Mr. Yost: There is actual confusion on the plan. We went back and forth with Winchester about this. The Planning Commission had a discussion on it and they did not push the issue to make them put the lines underground. All lines within the subdivision will be underground but the existing ones along the frontage is in dispute right now as whether they are going to have to do that or not.

Mr. Hoewing: Are those on their side of the road or the other side of the road?

Mr. Yost: Their side.

Mr. Kuhlman: Now they have to move them.

Mr. Yost: They have to move the poles yes.

Mr. Potemra: But they don't put them underground.

Mr. Kuhlman: I thought they were going underground.

Mr. Yost: That plan says relocate am I right John?

Mr. Strong: It says relocate but there is discussion as to what the Town Code means as far as the placement underground.

Mr. Potemra: Let me make this simple. I would really like those things underground when you put in a new development and this is the way you are going to do it. The other point is don't do a patchwork road like you did with Hughes Road you have got to find a way, you screwed up on Hughes Road or whatever, all future roads you've got to take control of that road especially when you are laying both sides.

Mr. Klobukowski: The County owns the road we don't own the road.

Mr. Potemra: You can get the road from the County and have the developer fix it.

Mr. Klobukowski: If the County is willing to bring the road up...

Mr. Potemra: The County will give you that road in a heartbeat.

Mr. Klobukowski: That is right but if the County is willing to spend the money to bring it up to the standard...

Mr. Potemra: They won't bring it up. You have to get the developer, you got to get tired of looking at Hughes Road, driving down Hughes Road, which is a mess.

Mr. Yost: West Willard is slated to be repaved after the construction is complete.

Mr. Hoewing: Wade I think we ought to, when we did the Town Hall and we did Whalen Commons obviously we buried out front there and that is really helpful but I think we need to look into the legality because I'm almost positive working in industry that you

can't tell a developer to bury the line, they don't own them, they have to pay somehow and it will be a lot of money, it would probably be 6 or 7 million dollars to bury all of those I'm guessing out front here for example, and no developer is going to do that, so if we are going to get it done the only way we could do it is to pay, use Town funds or grant money and we just don't have that much money.

Mr. Klobukowski: Yeah but with respect to Whalen Commons there just happened to be a confluent of things that happened....

Mr. Hoewing: Right that came together.

Mr. Klobukowski: Where Verizon decided to bury the lines from their switching station up by the Post Office down through so we lucked out on that one it just happened all in one --- but unfortunately this is the way that everything always works.

Mr. Hoewing: It is a good suggestion and if we do it in the streetscape context maybe we can get a grant at some point in the future I don't know but the developers don't really have much to say about it they just haven't got the money to get it done because it is not their property it's the utility.

Mr. Kuhlman: All right make a note there Wade to revisit this issue under the Town Manager's report please, I want a chance to look at the book, I think they are required to put them underground myself.

#### **New Business**

Mr. Kuhlman: All right that concludes the open forum back to new business Resolution 008-09 Mr. Wright what do you have to say about this please Sir.

Mr. Wright: I talked to Mark Flanagan and he advised me that what we have got in the draft resolution here is basically what the Town's constitutional provisions say for our borrowing authority. I think what the State is looking for frankly is something more in the way of a limitation so that they know that we are not going to get into trouble and I did look at some on the website some various examples of debt policies that had been posted by the Treasurer a lot of them were out of State but Hagerstown had some reasonable ones and I have those available if the Commissioners want to take a look at them. I don't know how serious the State is about putting something with teeth, requiring something with teeth from the municipalities but probably if they don't like what we send them they will just send it back and say do it over, in which case we would have to look at something a little more restrictive. The way it is this is all correct it is straight out of our Code Charter.

Mr. Kuhlman: All right so you are saying that you feel there needs to be limitations in dollar amounts in here?

Mr. Wright: Well what I took looking at several of the examples that the Treasurer had posted links to, Hagerstown had some pretty reasonable ones for example they said, they said the city but I would say the Town would limit its long term borrowing to capital improvement projects that cannot be financed on a pay as you go basis within a reasonable period of time to its current residents, but I think we do that already we just don't have it as a stated policy. The Town will not use long term debt to fund the current operating costs, well again that seems to be pretty self obvious and is something that I think we certainly wouldn't use long term debt to fund current operating costs. Capital projects financed through the issuance of bonds shall not be financed for longer than the expected use of the life of the project, again good fiscal policy so these I think if we

wanted to shore up our resolution not change our Charter authority but just include some things like this in a resolution we would be a little safer not getting tossed back to us.

Mr. Klobukowski: So you are saying cite a dollar amount or a percentage?

Mr. Wright: No I would not recommend a dollar amount.

Mr. Klobukowski: Ok what about it mentions in here about derivatives and also there is somewhere in there it mentions about futures and options, would we want to put something in there where we do not engage in derivatives and futures and options. As I recall something happened out in California a couple years ago.

Mr. Wright: That is a separate requirement, which I frankly haven't looked at because I'm not even that familiar with how they operate. They do want and I assume we would get this from our accountants, requires subdivisions to submit information regarding any use of variable interest rate debt instruments, interest rate exchange agreements (inaudible) and other derivatives including (inaudible) and options. As far as I know we haven't engaged in any of those practices, all we have to tell them is we don't do that.

Mr. Klobukowski: Well would we want to have the possibility or the option in the future of allowing it period from being ever considered or ever used?

Mr. Wright: Well the thing about this requirement coming down from the Treasurer's Office is its very vague in terms of what exactly we are supposed to say. They don't give us any guidance they just say it has to be a policy about what kinds of debt we will enter into and what circumstances, it has to be beneficial to meet the needs of the local government in our case Poolesville so that is about all it tells us and then it gives us some examples to look at so I don't think that there is any requirement that you have to put any thing in there specifically regarding derivatives or futures and options and so forth.

Mr. Klobukowski: I'm not saying there is a requirement would it be prudent since we are considering this now to do that period. There was something that happened out in California a couple of years ago I don't know if it was Orange County or Orange something there near San Diego and they literally lost they were bankrupt.

Mr. Wright: Well I wouldn't recommend that you engage in those kinds of investments but whether you want to put it in a policy or not is up to you certainly if there is no thought of using those kinds of instruments than I think it would be entirely appropriate.

Mr. Klobukowski: What we feel right now as sitting Commissioners versus the next group that come in may have a completely different attitude toward these things thinking they can handle it.

Mr. Kuhlman: And all they have to do is change the resolution.

Mr. Klobukowski: But at least they would have to have a public hearing in order to change the resolution which would then give some public input on it and some sort of hopefully forethought because...

Mr. Kuhlman: There is no public hearing required for a resolution.

Mr. Klobukowski: Well still I think the public might be interested.

Mr. Hoewing: When do we have, is this already supposed to be back to them?

Mr. Yost: We have an extension on it.

Mr. Hoewing: An extension on it so if we got some language to look at we could wait till the next meeting to adopt it or is that too late?

Mr. Yost: No that is fine.

Mr. Hoewing: Rather than talk about it since I don't even know what the language looks like.

Mr. Kuhlman: Well I kind of take the other approach to it Link this has been in our Charter this is verbatim out of our Charter, it has done us well for quite a few decades, the State did give very vague guidelines on it, there are several online other towns that have done this majority haven't done it yet.

Mr. Hoewing: Have they done it like this with just kind of this is general guidelines it doesn't really say what kind of instruments you are talking about, you are saying we are supposed to be more specific about the kind of instruments that you would use correct, debt instrument?

Mr. Wright: They want a policy as to what kinds of debt we would enter into under what circumstances.

Mr. Hoewing: I mean I don't have a problem saying this and if they reject it then we can do it then too that is probably just as easy so either way is fine with me. I understand where they are going frankly it is a fig leaf they want to have something in all the towns that have them say we don't do this kind of bad thing I understand.

Mr. Kuhlman: Well the --- thing to me is I think the Resolution should match the Charter so I mean if you are going to change, if they don't accept the Resolution which we have lived by for eons than I think you need to change the Charter to match the Resolution so I mean it would be my suggestion we approve this Resolution and send it forward and I don't know whether they will have a problem with it or not.

Mr. Hoewing: And if they don't fine, if they do we will reconsider it.

Mr. Brown: Well part of this is too, I will make you a bet part of it is to enlighten other towns possibly including our own to raise their to potentially look at their Charters to reflect what our new investment situations and new ways of handling debt too so it is kind of a modernization tool that I think they are forcing on us. I would just as soon wait for a rejection first if it happens and then see what happens after that.

Mr. Wright: I wouldn't recommend changing the Charter, the Charter's purpose is to give to tell what the powers of the Town are, they are not necessarily to set the policies by which you exercise those powers so they I mean the State is very clear you can do it however you want by Ordinance or Resolution however, I think the Resolution is certainly the simplest way.

Mr. Brown: Ok that is fine.

Mr. Kuhlman: So is there a motion for approval of Resolution 008-09?

Mr. Hoewing: I so move.

Mr. Kuhlman: Is there a second?

Mr. Brown: Second.

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

All: Aye.

Mr. Kuhlman: Motion carries unanimously. Westerly Avenue Swale Contract, Mr. Yost or Mr. Strong.

Mr. Yost: I am going to have John go ahead and refresh us on this plan that we had discussed in April or May when we passed the budget.

Mr. Kuhlman: Very good.

Mr. Hoewing: Before we do that could you answer Wade the question about notice I know it was in the newsletters and I know we have had a lot of meetings on it did we specifically notice this to the residents who are affected or not?

Mr. Yost: One letter did go out in regards to starting the planning phase we had to have it surveyed and so I sent a letter to the residents on Westerly Avenue just notifying them that they were going to be surveying it and looking for improvements that would be done and there would be a public meeting after this. I don't know if he didn't receive the letter or...

Speaker: Inaudible.

Mr. Hoewing: Well we have had it in the newsletter I know and we have talked about it but that is the only time that we specifically told the residents that one time.

Mr. Yost: Yes that one time.

Mr. Hoewing: All right.

Mr. Kuhlman: Mr. Strong.

Mr. Strong: All right this is the --- the project is from Hughes Road all the up to West Willard. As you know the swale area some of the slopes did not conform to the original design of a 2 to 1 the reasons for them not conforming could be several, erosions, settlement, not properly built, wasn't for us to determine what the causes were. What started the process was at the corner of Whites and Westerly the swale depth was extremely narrow we had a complaint from the resident...

Mr. Klobukowski: That is what started the process.

Mr. Strong: And we went back and gave three scenarios to the Commissioners which was first of all was enclose the swale entirely and use nylaplast piping along with nylaplast inlets, yard inlets, should the existing swale and grading that exists there, we can't get the water out over the curb, the sidewalk area pitches the wrong way plus there is some elevation issues. So we looked at that, then we looked at placing a 3 to 1 slope through various areas of (inaudible) is currently there and then enclosing that steep swale area which was extremely deep because we would have had to gone back in the yard an extreme amount. Also when we relocated the swales the 3 to 1 we would have had to put new driveway culverts in the entire length of the project. The final option was to restore the swale to the 2 to 1 slope it was originally designed for and replace the piping down at the corner of Whites and Westerly so what will take place at the corner of Whites and Westerly is grading, also a relocation of this culvert pipe underneath the driveway and tying into the existing inlet structure and raising that inlet structure, there will still be a slight swale on the property for the inlet structure can't capture all the water because of the existing grade on the existing lot. The swale will be regraded to the 2 to 1 slope and also establish that 1 foot area that is not presently present in a lot of areas. And that is where we are at with the project to date.

Mr. Hoewing: So the reference to Cadillac verses Chevrolet what does that mean?

Mr. Strong: Well I gather the Cadillac would be the or the Rolls Royce or take your high end car would be piping the entire length, the Cadillac would be the according what they are requesting it would be piped and the Chevrolet would be just the corner lot.

Mr. Hoewing: Is anything going to happen to their driveway his driveway, he said he just had his driveway redone.

Mr. Strong: No in this scenario nothing would happen to the driveway we would just simply re-grade the swale.

Mr. Yost: Actually these 3 homes are all on the one block correct?

Mr. Strong: Correct.

Mr. Yost: If we were to enclose those do you have to cut the driveways?

Mr. Strong: I suspect so the culvert pipe would have to be changed in order to get it to work I suspect I would have to double check that because you can't tie out the existing pipe because it is probably CPT pipe and the end section to tie into it may not line up for several reasons, it is deformed already for one, and I'm assuming that it would be corrugated metal, I will have to double check but that would be typical of the problems with trying to tie into the existing culvert pipe.

Mr. Kuhlman: All right and you were talking to me out in the hallway Wade you want to go ahead with that part of it?

Mr. Yost: There is 2 other particular properties if it was feasible we know we have a bid here which is below the budget line item that we have. So you have an estimate of what it might cost and I guess you have to look and see if we have to cut the driveways number one.

Mr. Strong: And I say the biggest question is do we have to cut it put a new pipe in or can we tie into the existing and without measuring that pipe and seeing what condition it is in also I can't answer the question.

Mr. Yost: Do you have a range of what it would cost?

Mr. Strong: Anywhere between my guess at the time were \$5000.00 because we had to (inaudible) I assume and also the pipe diameter may or may not have to be increased, I will have to double check that, and we will also have yard inlet because of the way the existing driveway is graded. Remember we looked at that in the original scenario --- the yard inlet in front of the driveway water came down the swale it would still exist just much more shallow.

Mr. Hoewing: Under this current year proposal would that put the swale to a grading situation so that you could cut your grass and wouldn't have to use cleats and that kind of thing.

Mr. Strong: Yes it would be flat. This is going to be a 2 to 1 slope you put the piping of course it goes down to very, very shallow.

Mr. Yost: And what you are asking Wade is if we, the bid is \$110,000.00 could we do it for I guess \$120,000.00 is what we have in the budget right?

Mr. Yost: No we have \$152,000.00 in the budget.

Mr. Hoewing: Oh \$152,000.00 that much ok.

Mr. Yost: And we do want to award this contract just because we want to get the dirt established as well as the grass seed so it stabilizes for the winter.

Mr. Hoewing: For the winter yeah.

Speaker: Inaudible.

Mr. Kuhlman: Excuse me Sir now is not the time. Did you have anything else John?

Mr. Strong: No.

Mr. Kuhlman: Any questions of John?

Mr. Klobukowski: You say 2 to 1 slope I'm not sure I am envisioning a 2 to 1 slope verses a 3 to 1.

Mr. Strong: It is 2 to 1 horizontal 1 is vertical.

Mr. Klobukowski: Yeah I understand that but I'm trying to put it somewhere in Town where I...

Mr. Strong: Well there are portions of the swale along here that are 2 to 1 and actually shallower. I don't have an address for you.

Mr. Klobukowski: Between Hoskinson and Oxley Farm.

Mr. Strong: I suspect that would be one place.

Mr. Yost: Jerry's yard is probably pretty close to a 2 to 1 on the sidewalk side. We are going to be grading the sidewalk side correct?

Mr. Strong: Correct.

Mr. Kuhlman: Ok any further discussion?

Mr. Brown: I have a question Wade can we approve this with a potential to have an add on to do the additional work needed?

Mr. Yost: Yes.

Mr. Brown: If it works out that that is the best thing to do.

Mr. Yost: Right.

Mr. Brown: I'd be in favor of that.

Mr. Kuhlman: Ok anything else John?

Mr. Strong: No Sir.

Mr. Kuhlman: Wade anything else?

Mr. Klobukowski: When you say approve it depending on if it works out are you willing to put a not to exceed limit on the upper range?

Mr. Brown: Sure.

Mr. Hoewing: Well we've got only a budget of \$152,000.00 so we can't exceed that.

Mr. Yost: Right and we've already paid for the survey and engineering.

Mr. Klobukowski: Right but we are worried about money and we are cutting back on other things and everything else so a buck is a buck you can only go in one direction at a time so what is the right thing to do, what is the adequate thing to do within the budget, and what is the thing that will avoid problems in the future.

Ms. Gruber: Approximately how much of the \$152,000.00 budgeted has been spent already in the survey?

Mr. Yost: Probably about \$7000.00 of it.

Ms. Gruber: Ok.

Mr. Kuhlman: All right in deference to this gentleman I will give you a minute sir because Conrad spoke out and got his questions answered so if you want to come to the desk pertaining to this issue.

Mr. Parker: Doug Parker 19704 Westerly Avenue. I sit in the middle of 2 homes the Kirby's and Jim's and my question is as you grade this, it says you are grading the sidewalk side so are you bumping back the other side.

Mr. Strong: No the drainage swale becomes, if it has to move out the --- would be so the volume of water would still service into the inlet but there will be a more shallower slope on the sidewalk side.

Mr. Yost: There is a picture of it on the plan you can see it in the diagram there.

Mr. Strong: They are going to add fill here. Right now this meets here and this is (inaudible) it is not to scale, what will happen is this piece will go in and this channel will narrow.

Mr. Parker: Well I tell you I apologize first of all because (inaudible) but I will tell you in buying this house in Poolesville I've dumped over \$55,000.00 in this house to make it look like it's a (inaudible). I would like to stay out here but I tell you (inaudible).

Mr. Kuhlman: All right thank you Sir. Anything further from the Commissioners. All right so Wade you are saying we have \$152,000.00 in the budget against this project, we

have \$110,000.00 bid and all the requirements of the bid were met and you guys feel for an additional 10 it could take care of it.

Mr. Strong: Close to it, 5 to 10 per lot.

Mr. Kuhlman: Per lot oh ok I am sorry.

Mr. Brown: Up to 20 is what we should go.

Mr. Kuhlman: So \$130,000.00.

Mr. Hoewing: Right.

Mr. Kuhlman: All right is there any discussion among the Commissioners or any questions about possibly awarding this contract with a bid price of \$130,000.00 and let Staff deal with the contractor on expanding the scope of work, hearing none I call for hopefully a motion, anybody?

Ms. Gruber: Is that the motion to award the contract, I'm asking if that is the motion to award the contract?

Mr. Brown: Yes.

Ms. Gruber: Yes I make the motion to award the contract not to exceed \$130,000.00.

Mr. Kuhlman: Ok is there a second?

Mr. Brown: Second.

Mr. Kuhlman: Any questions or comments.

Mr. Klobukowski: Yeah I have a question what happens if all of a sudden it says we...

Mr. Kuhlman: Can't hear you Jerry.

Mr. Klobukowski: What happens if all of a sudden it says we need another 10 grand.

Mr. Yost: I'll be back here at the next meeting asking you.

Mr. Klobukowski: Because I mean if we say not to exceed that means not to exceed I don't want to see anybody back here because at that point I will say no I don't care it will not.

Mr. Yost: At that point it wouldn't be feasible.

Mr. Kuhlman: We could go not exceed \$152,000.00. No I am comfortable with this. All right anything else hearing none call for question on the motion all in favor?

All: Aye.

Mr. Kuhlman: Motion carries unanimously. Budget amendment for the reduction in the Highway User Fund. We did have a work session last Monday night to look at this, there were at least 5 different potential solutions looked at and they were to just take lets see we were shorted \$198,000.00.

Mr. Klobukowski: \$200,000.00

Mr. Yost: Yeah the budget dropped we had \$200,000.00 we had estimated \$270,000.00 we would receive and we received \$23,000.00 so it did throw our budget into a negative \$198,000.00.

Mr. Kuhlman: All right thank you for the update. Some of the solutions that we looked at were allocate the funds from the cash reserves, abandon the band shell project for this year, which would free up enough money but we would also lose the \$100,000.00 grant. We looked at talked about abandoning the Skatepark project or putting it off for a year or two but we would also lose \$175,000.00 grant there. We discussed reprioritizing and delaying road projects and we discussed abandoning the Hunters Run sidewalk project and some other subjects were thrown out. Is there any Commissioners that want to make any comments. Hearing none the straw vote at the work session which needs to be done

in a public meeting tonight was to go for abandoning the Hunters Run sidewalk project which would throw \$250,000.00 back into the unrestricted cash reserve.

Mr. Yost: It really will go back into the General Fund actually.

Mr. Kuhlman: Yeah General Fund. All right is there a motion to move forward with that?

Mr. Hoewing: I move we approve the draft budget proposal we considered at the last meeting to abandon the Hunters Run sidewalk swale project or sidewalk project and essentially put the \$250,000.00 back into the General Fund.

Mr. Kuhlman: Is there a second?

Ms. Gruber: I second.

Mr. Kuhlman: All right any discussion?

Mr. Brown: Is that how we really left it at the last meeting that it was going to be the entire Hunters Run project was going to be abandoned and that money was going to be moved as a chunk into the unrestricted or rather the General Fund, is that what our conversation was?

Mr. Yost: No we had discussed potentially moving, we were definitely going to cancel the project...

Mr. Brown: Cancel the project...

Mr. Yost: Discussed moving \$200,000.00 to the General Fund and the other \$50,000.00 going toward the Skatepark project.

Mr. Brown: Correct.

Mr. Kuhlman: Yeah if somebody wants to make that part of the motion I mean to me it is a 2-step process.

Mr. Hoewing: It is.

Mr. Kuhlman: You got to put it back into the General Fund and then reallocate it.

Mr. Hoewing: Right that second has to be a second that is why I didn't do that.

Mr. Brown: I have no problem with that just wanted to make sure we are on the same page.

Mr. Klobukowski: So the bottom line is the Hunters Run sidewalks are out period.

Mr. Brown: Out for this year but not necessarily...

Mr. Klobukowski: But the thing is again I thought we talked about we were going to build up money towards it this just wipes it all out period and there is no decision here to modify the budget with some sort of intent to build up sufficient funds within x number of years to build them.

Mr. Brown: I believe the direction we went the other night was that that was proposed and then was via straw vote was not necessarily the way we wanted to go in and I am sympathetic to having Tom Fox be put in reinstalled as a budget line item but I'm also in favor of not doing that at this time so I think that is how it went down last time.

Mr. Kuhlman: All right any further discussion or questions, hearing none call for question on the motion all in favor?

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

Mr. Kuhlman: Opposed?

Mr. Klobukowski: Opposed Aye.

Mr. Kuhlman: Motion carries 4 to 1. All right is there any further issues on this motion?

Mr. Klobukowski: Well I don't know what, I mean we just cancelled, we are adopting what you just did and we are canceling Hunters Run now the rest of it I assume is through the budget next year.

Mr. Hoewing: No we had also talked about \$50,000.00 going to the Skatepark so somebody has to make a motion on that if we are going to do it, or you can make a motion Jerry to put \$50,000.00 back in its up to you, you can make a motion saying we got this money and we can, because if we do 50 we've still got \$200,000.00 that covers the probably the shortage we have.

Mr. Kuhlman: Right in the \$250,000.00 going back to the General Fund by postponing or abandoning the Hunters Run sidewalk clears the budget now, it actually gives us \$50,000.00 more than we had under the original budget. There was discussion the other night about moving that \$50,000.00 that over zeroes the balance into the Skatepark, but there needs to be a motion for that now. A budget amendment takes a vote of 4 Commissioners.

Ms. Gruber: I motion that we move the \$50,000.00 from the General Fund into the Skatepark project to finish that phase.

Mr. Kuhlman: Is there a second?

Mr. Brown: Second.

Mr. Kuhlman: Any discussion. The \$50,000.00 doesn't finish it does it.

Ms. Gruber: I thought it finished that first phase.

Mr. Kuhlman: No it is about \$130,000.00 short.

Mr. Yost: What it does it finishes the park and makes sure everything is graded and level stormwater devices in place and the fences around it. What it doesn't cover is asphalt entrance and the sidewalk along the frontage, curbing along the frontage, and a gravel parking lot, which is another \$80,000.00.

Mr. Hoewing: For all that or just for the sidewalks for the gravel parking lot?

Mr. Yost: For all that, for the second piece.

Mr. Brown: Translation Parcel 840 infrastructure development.

Mr. Kuhlman: But is that really a true picture I mean from what you told me today we need to spend money to grade the parcel outside of the contract to build the Skatepark to get the grading ready. I mean I as I told you today I've always been under the impression that and Jerry to answer your question from the work session, the contract has not been signed with this group.

Mr. Klobukowski: Ok yeah I remember that thank you I appreciate that.

Mr. Kuhlman: So I mean we could bag the whole thing and be under no obligation to anybody legally but again I thought this awarding of this \$150,000.00 contract was there is the parcel you go build us a Skatepark for that money and it was a turn key deal, we had to add stormwater management, the curb and gutter, the sidewalks, the driveway and the parking lot, but now you are saying no we are also paying for some other company to come in there and do a bunch of grading so the Skatepark can be built.

Mr. Yost: That is the way the RFP was you are right to build the park you need \$150,000.00 but we knew there would be two different contracts to be done on this property, one is to grade out the big hump that is in the middle of the field will be graded level, that dirt is going to be placed over where the Skatepark is, they will come in and do the fine grading and level the park and build the humps whatever they have to do and then concrete it in, that is their part of the contract but the other portion as far as

stormwater management inlets and the other infrastructures to be placed before the whole lot itself can be graded for the parking and what we used --- so it is kind of a two fold bill together, it is a separate contract yes.

Mr. Hoewing: Is that partly in preparation for using the rest of the land for something else too or is it...

Mr. Yost: Well it is and I mean they interlink between each other.

Mr. Kuhlman: Yeah but the point I am trying to make Link is I was under the impression that the \$150,000.00 contract for the Skatepark was here is where we want it built, build it. I didn't know we had other monies to spend with a different company to get the site ready for them to build it on.

Mr. Yost: Yeah we got \$175,000.00 grant and we knew we would use \$150,000.00 not to exceed for just the park itself and then there would be other amenities we would have to cover above and beyond.

Mr. Klobukowski: That doesn't include the fence.

Mr. Yost: Correct that is why it was included now but yes that is right that was another contract also. And we've got to determine what type or style of fence we are going to use.

Mr. Klobukowski: I mean there is nothing that we could do that our guys with all their little toys could go down there Preston and gang and sort of get it rough graded enough.

Mr. Yost: No it takes some big equipment.

Mr. Hoewing: But things like the fence though Wade potentially at least in other Skateparks they have gotten some of those things done in kind I mean there are people that make fences and build fences around here and it is possible and I know they are trying to do that find ways...

Mr. Yost: Yes they are doing that you are right.

Mr. Hoewing: I mean it is not a guarantee.

Mr. Yost: No they are looking for in kind contribution of concrete and everything so Butch is working on all of that. So yeah the price could come down also.

Mr. Hoewing: Right.

Mr. Brown: So do we need to make this a budget amendment today then?

Mr. Kuhlman: Pardon me.

Mr. Brown: I say do we need to make this budget amendment today to continue I mean I know we have a \$150,000.00 contract that we do need to sign, it is contingent on this?

Mr. Yost: Right because they need that dirt to be placed over there so they can actually grade it out, if they don't have that...

Mr. Brown: Right so what we are in effect doing is committing to the upgrading of the Parcel 840 infrastructure that will also yield what the Skatepark is going to need.

Mr. Yost: Right this section of it is both correct.

Mr. Brown: And a \$50,000.00 budget amendment will cover most of that.

Mr. Yost: It won't cover anything about the asphalt or the sidewalks or any of that stuff.

Mr. Brown: For the Parcel 840 infrastructure.

Mr. Kuhlman: You got your budget with you?

Mr. Yost: Yes.

Mr. Kuhlman: On page 22 I hope I am in the right section.

Mr. Klobukowski: Project 235 or 2035.

Mr. Kuhlman: Yeah. So we are showing this whole project at \$250,000.00?

Mr. Yost: Yes that was the initial estimate we looked at.

Mr. Kuhlman: And we had already what \$60,000.00?

Mr. Yost: Yes. Actually we had \$80,000.00 because you have \$20,000.00 from Parcel 840 development. Do you have that project sheet that I handed out before at the work session? We had \$80,000.00 in cash and then \$175,000.00 grant.

Mr. Hoewing: We had \$255,000.00 didn't we or something like that?

Mr. Yost: Yes \$255,000.00 correct. Was it \$326,000.00 for the total, for all the other amenities we needed?

Mr. Yost: Right around there.

Mr. Hoewing: So 50 is not going to quite do it.

Mr. Klobukowski: As I understand like Eddie sort of --- we said \$250,000.00 for the whole park now we are up to \$300,000.00 I don't get it, I get it but...

Mr. Yost: Part of this the engineering we have \$25,000.00 we spent on engineering so far part of that is for Parcel 840 development, committee meetings, bringing up the plans and all that stuff, it is not all Skatepark that is also part of the development that's between the combination budget.

Mr. Brown: So how much of a budget amendment is it going to take to get it to, not that I'm talking about doing more than 50 tonight but what budget amount would we need to do in order to make an amendment to cover it.

Mr. Yost: \$130,000.00.

Mr. Kuhlman: How much?

Mr. Yost: \$130,000.00. A little bit less than that.

Mr. Brown: Give me the breakdown again one more time because I have got my pad and my paper and my pen.

Mr. Yost: Ok.

Mr. Brown: I know it is on the sheet but just tell me.

Mr. Yost: \$43,000.00 just to complete the grading and a fence. The fence is the one consideration we really hadn't looked at.

Mr. Brown: So \$43,000.00 what.

Mr. Yost: And then \$79,194.00 gets you a gravel roadway and parking area, sidewalk, asphalt entrance, seed and fertilizing, and curbing.

Mr. Hoewing: Some or all of that may be useful to the committee designer whenever we do develop it as well.

Mr. Yost: All of this, this \$80,000.00 basically...

Mr. Hoewing: So this is really, because this is going to be a joint use area this is partly going --- that as well.

Mr. Yost: Right and the stormwater management that was \$8000.00 in stormwater management, which is really Parcel 840 part of that.

Mr. Brown: Is that the worksheet from last time?

Mr. Yost: Yes.

Mr. Klobukowski: Could we get the County to come out and grade it, they've got big toys?

Mr. Kuhlman: Who?

Mr. Klobukowski: The County. Nancy Floreen said we'll build sidewalks so why don't you come out bring your little tinker toys and have at it, use it as a training session you know they could bring their guys out and train a few rookies, it is worth a shot. I mean

we are not building sidewalks in Hunters Run but we are going to spend money on the Skatepark. Seriously though could we talk to the County, seriously?

Mr. Kuhlman: I've asked Wade to put in a call to Kathleen Matthews to see if there is any available funding that we could get our hands on.

Mr. Klobukowski: Is there a Vo-Tec school around here, even Frederick County that could...

Mr. Kuhlman: No there is no Vo-Tec school.

Mr. Klobukowski: Or something I don't know.

Mr. Kuhlman: All right.

Mr. Klobukowski: I just remember my parents and a bunch of parents who built us a ball field now it is not the same complexity but there were guys out there every night working for a couple weeks making sure the thing was graded, putting the holes in for the fence posts, putting the posts in, building the dugouts, seeding, all that stuff. So it may seem like a joke to some people but to me I am serious.

Mr. Kuhlman: Well we have a motion on the table that has been seconded. We need to vote on that, before we vote on it I would like to say that I would rather withhold this issue and I personally because I really understood this project differently, I would like an opportunity before I was called to vote on this to really sit down with the Town Manager or even the Commissioners at the next meeting and get a full grasp on what we are looking at, because I really don't know what the hell the numbers are right now to comfortably vote on it. I can call for question on the motion or we could delay it until the next meeting and get a relook at these numbers again.

Mr. Brown: Is delaying till the next meeting going to impinge us in terms of this contract or getting moving on it?

Mr. Yost: We just won't sign it until you make a decision.

Mr. Klobukowski: How long is the bid good for and how far are we into that process? Usually it is 30 days, 90 days.

Mr. Yost: It is but they have asked for an extension because they haven't got the bonds together yet.

Mr. Klobukowski: So they are wanting an extension?

Mr. Yost: Right.

Mr. Brown: Who made the motion?

Mr. Kuhlman: Lori did. I mean what do you all feel comfortable doing?

Ms. Gruber: I'm comfortable waiting until the next meeting so we can have the numbers written down and complete understanding of the total cost of this.

Mr. Kuhlman: Ok, Link?

Mr. Hoewing: No I am. Although I got to say these numbers were out there these aren't new numbers I knew what the numbers were, it wasn't confusing to me the only thing that was a little confusing to me is why we had to do all the grading but I think a lot of that is because of moving the dirt over and because of the County's requirements for stormwater and all that kind of stuff, so a lot of that stuff was that kind of stuff which you can't really do much about that is there. But I also think and I know I've been involved in other Skateparks where they got a lot of extra help when people knew they didn't have enough money they just started chipping in, so Jerry is right that have heavy equipment that know how to do that stuff, if we have to come up against that and can't get the extra because it is a lot of money I agree thousands extra then we may have to just say here is

the limit and we're going to get it done, the committee has got to come together and get it done, maybe that is where we end up I don't know.

Mr. Kuhlman: All right Lori are you withdrawing your motion?

Ms. Gruber: Yes I will withdraw the motion.

Mr. Kuhlman: Ok all right then Wade I will get with you in the next few days and we'll sit down and put together a presentation I think I can understand if you don't mind and we will have it on the agenda at the next meeting. All right thank you all.

### **Old Business**

Mr. Kuhlman: All right so we have taken care of the budget shortfall and old business. Ordinance 174 Wade or Alan where are we at now?

Mr. Wright: There was an amendment suggested and the language that we have come up with is to say that "on any residentially zoned property having a shared driveway no special exception use that entails or may result in the use of the shared driveway by motor vehicles shall be permitted". I believe that was your motion.

Mr. Brown: That was. That was the cleanup of my motion.

Mr. Hoewing: Do we need in your view Alan to add I forgot I don't have my copy of the zoning requirements, do we need a definition of shared driveways and pipestem driveways or not, is that sufficient and clear I mean it was suggested by Linda when she came up?

Mr. Kuhlman: Yeah I am reading that right now.

Mr. Klobukowski: That is nowhere in our Code right now then?

Mr. Hoewing: I don't know if it is I didn't look. It might not be a bad idea.

Mr. Wright: Probably is not in the Code.

Mr. Hoewing: I mean the truth is I don't think we only allow in our Town now 2 houses that's it right...

Mr. Klobukowski: No in what's his faces development...

Mr. Hoewing: No, no they are there Jerry but I think our Code actually says only two.

Mr. Klobukowski: Right but in...

Mr. Kuhlman: If they got a variance on that...

Mr. Klobukowski: Stoney Spring or whatever it is the Kettler Development Brightwell Crossing they have 3 on 1.

Mr. Hoewing: Ok.

Mr. Kuhlman: Well personally maybe I deal with this a lot with the real estate but to me it is understandable, a pipestem goes back to one house, a shared driveway there is more than 1 house on the driveway.

Mr. Klobukowski: And it could be a pipestem.

Mr. Wright: Pipestems could be a shared driveway also right.

Mr. Hoewing: Yeah ok.

Mr. Wright: I think a pipestem is a little bit of, might require some definition, but I think a shared driveway is pretty clear but we can certainly draft the definition.

Mr. Klobukowski: Well it seems to me it would be rather simple any driveway that 2 or more homes share.

Mr. Hoewing: Yeah pipestems not that necessary though, they don't have to be shared driveways they can just be (inaudible).

Mr. Klobukowski: Yeah you are right.

Mr. Hoewing: I think a shared driveway is what we are talking about whether it is pipestem or not is not ---.

Mr. Klobukowski: Yeah ok.

Mr. Kuhlman: Understand that this only deals with if there is a special exception required I mean if there is a legal legitimate at home business, which there are a lot of allowances in the book, it doesn't matter. If I lived on a shared driveway I could have my real estate company in the house and have all the cars I want parked in the driveway.

Mr. Klobukowski: Is that what this is saying I thought...

Mr. Kuhlman: No this is saying only if it is special exception required for the use.

Mr. Klobukowski: So if I understand this correctly someone has to come in if they have a home business...

Mr. Kuhlman: Home based business I mean like my office Jerry in my home I am legal I don't have to have a special exception.

Mr. Klobukowski: Right but if it was a shared driveway then would you have to come to the Board of Zoning Appeals?

Mr. Hoewing: No not unless you need a special exception and some home uses you don't use special exceptions. The only way we could change that is if we went through and changed all the home uses to special exceptions.

Mr. Kuhlman: I mean I just brought that up because I want to be clear.

Mr. Hoewing: No that is the reality.

Mr. Klobukowski: Ok.

Mr. Kuhlman: All right any further questions or comments on Ordinance 174?

Mr. Brown: Are we moving forward with the definition or do we agree we don't need one.

Mr. Wright: The motion was to amend the language of the Ordinance and then you would need a decision to pass the Ordinance?

Mr. Kuhlman: Right I am just asking is there any more questions or comments on Ordinance 174 as amended.

Mr. Klobukowski: Yeah well not as amended but I think some of the stuff that is in Don and Linda Barnes letter dated 5 October should be considered I don't know. To me it appears it might be worthy of inclusion. Now whether it goes in the Ordinance or the definition of a shared pipestem driveway goes in the definition section or in the Regs somewhere.

Mr. Kuhlman: Well the way I look at it Jerry is the business is inside the home, I don't know how this affects the property lines and backyards and things of that nature, what we are doing now by this Ordinance is restricting that if you come forward and want a business that requires a special exception and have a shared driveway none of your customers can use the driveway they have to park out on the street.

Mr. Klobukowski: Ok is that correct Alan is that the way you see this?

Mr. Wright: Say that again?

Mr. Kuhlman: That if you have a home based business that requires a special exception and you have a shared driveway once this is enacted none of your customers can park in the driveway or use the driveway they have to park out on the street. That is my understanding of what we are adopting or discussing.

Mr. Wright: I would agree with that right.

Mr. Klobukowski: See the thing is what you said is it requires any business that requires a special exception but you also said there are already businesses that can be home businesses that don't require a special exception that could be on a shared driveway and we are right back to where we are now and to me that is not the intent I thought of the Ordinance the Ordinance was to make it --- where I think Link pointed out last meeting where people would have to at least park on the street and have to walk up the driveway, now some people might object to that because they are straying over the line or whatever but at least you wouldn't have the traffic going up the driveway and it just seems like...

Mr. Kuhlman: Those businesses that don't require special exceptions could be open for years before the Town even knows about it, there is no license requirements so to try to cover that in this Ordinance I think is futile.

Mr. Brown: Me too I think the Ordinance stands on its own.

Mr. Kuhlman: Exactly.

Mr. Brown: And if that is something that we want to take on in the future and plus get legal recommendation on top of it that would be fine with me but that doesn't really have anything to do with what we are doing right now in my mind.

Mr. Hoewing: I mean if Jerry wanted to offer a proposal that says that we approve this change but then have the Planning Commission look at the special exceptions that come back to us with any further recommendations about restrictions. Essentially you have got a bunch of special exceptions today like home healthcare that are a special exception so if you are going to do one of those you have to come in, but there are some that aren't so you may want to look at all of them and say are any of these other ones affected by or could they have some impact on something I guess you could do that.

Mr. Klobukowski: Well I don't think we want to go then that means we are going to have to have another public hearing on the Ordinance to modify the Ordinance we just approved tonight. It seems like it would be more efficient to review what we have got out there now see how it impacts whether we need to write grandfather clauses in and again I don't want to see us be in court when you have neighbors against neighbors and get involved in this at all and I that is the reason why I am hesitant because of the way the wording is I think Jim it's a good effort trying to bring it about but I don't think we are there yet and I don't just want to go through this again I want to do it one time and do it right and be done with it and if it means it is going to change some stuff in the future so that the existing owner can have it until they leave their premises then maybe that is what needs to be done.

Mr. Hoewing: I guess the question is what leverage do we really have, we don't really have any leverage, if somebody has a shared driveway, they have a home business that doesn't require a special exception we don't have any leverage. So that is why I was saying Jerry if we want to have leverage we have to change the special exceptions and cover things that we don't cover today or we don't do anything.

Mr. Kuhlman: And the sad thing is again I am not a lawyer but my understanding of what has transpired over here is this is a dispute between property owners that they should be in court suing the adjacent property owner over the Covenants, the Covenants protect this, which the Town has no authority to enforce. And I offered at the last meeting to just eliminate the special exception uses on shared driveways and nobody agreed with that.

Mr. Hoewing: I mean right now for example if people have which I had for years I had one of the Poolesville High School clubs and every Thursday night lots of people came to my driveway and parked there and you can have that situation you can't really regulate that I mean that is going to happen.

Mr. Kuhlman: Well yeah because I mean you could live in this situation Link and have a consulting business, that requires no special exception and you could fill the driveway every day and there is nothing legally the Town can do, it would have to be the adjacent property owner suing you privately under the Covenants.

Mr. Hoewing: I guess though Alan we could, but see you couldn't do that, I mean you could try to set some regulation that says there is only a certain number of cars per house permitted on a shared driveway I guess.

Mr. Kuhlman: But how do you do that if a family has 8 vehicles.

Mr. Hoewing: Yeah you couldn't do that either so I don't see how you do anything beyond what we are doing right here.

Mr. Klobukowski: We have people parking their vehicles on their lawns right now just down the street from me.

Mr. Hoewing: So I think this is about the best that we can do.

Mr. Wright: Most of the businesses that would be allowed if not all of them would come under the definition of a home occupation and home occupation is defined to basically minimize the impact, that there is essentially no impact, but it doesn't deal with people coming to the home, just has to be operated entirely by people who are residents.

Mr. Hoewing: So in the case Alan of a the example that Eddie used, you have a consulting business and all of a sudden there is tons of cars coming in every day what would happen in that kind of situation. You said it is designed to minimize impact on the neighbors so that would be one, could the neighbor then say wait a minute they need a special exception because it said minimum impact this has a huge impact on me, could they come in and do that?

Mr. Wright: Well the definition of home occupation, the home impact of the business is one in connection with which the phrase no impact home business is defined to mean a business in which no visual, audible, or olfactory presence shall infringe upon the right of enjoyment of the adjacent and surrounding residential occupants.

Mr. Brown: I think that covers it.

Mr. Hoewing: So I guess they could come in and say hey this has impact on me you need a special exception.

Mr. Brown: Could it should.

Mr. Hoewing: Ok fine then I think we are covered then.

Mr. Kuhlman: Ok. All right any further questions, comments? Hearing none we need a motion on Ordinance 174.

Mr. Hoewing: I move the approval of Ordinance 174.

Mr. Kuhlman: Is there a second?

Mr. Brown: Second.

Mr. Kuhlman: Any comments all in favor?

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

Mr. Kuhlman: All right Ordinance 174...

Mr. Klobukowski: No I am opposed.

Mr. Kuhlman: Oh I am sorry Jerry. All right motion 174 or Ordinance 174 carries on a 4 to 1 vote with Commissioner Klobukowski opposed. Ordinance 175 this didn't even garner a motion last meeting.

Mr. Yost: That is right there was actually an --- there was a type and it should have said "but not limited to" as far as the limitations for the Planning Commission to make a recommendation.

Mr. Kuhlman: All right any comments.

Mr. Klobukowski: Well again I would consider what the comment was offered by one of the Barnes' concerning changing review to review and comment. I mean review could mean anything, it basically says you agree or you don't agree and if there is something that the Planning Commission sees that possibly they might offer as a fix to something that they perceive needs it and that allows for it.

Mr. Kuhlman: Alan what is your feeling...

Mr. Wright: I think actually that's a I mean from my point of view that is a helpful amendment to say comments rather than recommendations.

Mr. Kuhlman: Ok so we will strike the word recommendations and install the words comments, any further comments.

Mr. Hoewing: I agree.

Mr. Klobukowski: I make a motion we change just to make it official we say in paragraph E line 4 we change the word recommendations to comments.

Mr. Kuhlman: All right is there a second?

Mr. Hoewing: Second.

Mr. Kuhlman: All in favor?

All: Aye.

Mr. Kuhlman: Motion carries unanimously. Any further discussion on Ordinance 175? Hear a motion for on 175 as amended?

Mr. Hoewing: I move the adoption of Ordinance 175 as amended.

Mr. Kuhlman: Is there a second?

Mr. Brown: Second.

Mr. Kuhlman: All in favor?

All: Aye.

Mr. Kuhlman: Motion carries unanimously, these Ordinances are effective immediately. Ordinance 176 dealing with the parking.

Mr. Klobukowski: Could we skip that and go to 177 because I think 176 might take a little bit longer I don't know.

Mr. Kuhlman: Fine with me. Ordinance 177 road construction standards, Staff?

Mr. Yost: We had a public hearing there was only a couple comments.

Mr. Brown: No change in the analysis.

Mr. Yost: No change whatsoever.

Mr. Kuhlman: All right do any Commissioners have any questions or comments? Hearing none is there a motion?

Mr. Klobukowski: I make a motion we approve Ordinance 177.

Mr. Hoewing: Second.

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

All: Aye.

Mr. Kuhlman: Again that Ordinance is effective immediately. Ordinance 176 Jerry you wanted to delay it what have you got?

Mr. Klobukowski: No I am just right now trying to find my stuff. We talked about changing a lot of the words.

Mr. Brown: Did we have any further discussion on this beyond the actual amendments, some I know we had the public testimony, where else did we go with this refresh me anybody, we didn't have any controversial issues did we, we are adapting to Montgomery County's...

Mr. Yost: And they would be the enforcer with the exception of County and State vehicles will also be included, we did include that in this Ordinance. I don't know if the Police I don't think will enforce that aspect of it that will be us.

Mr. Brown: Shocker.

Mr. Hoewing: Yeah enforce it on themselves that will be interesting.

Mr. Brown: Hey I am just glad they are here I don't care where they park.

Mr. Wright: Just to be clear on this we are not adopting County Ordinance, we are not making the County one in Poolesville we are adopting our own which is very similar, similar enough that Wade has gotten assurances from the Police that they will...

Mr. Brown: It can be enforced.

Mr. Wright: Will enforce it and so it will basically be identical to what the County has passed for parking.

Mr. Brown: I got nothing.

Mr. Kuhlman: All right hearing no questions or comments is there a motion for adoption of 176?

Mr. Hoewing: Move for the adoption of Ordinance 176.

Mr. Kuhlman: Is there a second?

Mr. Brown: Second.

Mr. Kuhlman: Any questions or comments?

Mr. Klobukowski: Let me look at one thing I'm trying to find it in here ok I found it thank you I appreciate that.

Mr. Kuhlman: Ok anything further. All those in favor of Ordinance 176?

All: Aye.

Mr. Kuhlman: Motion carries unanimously.

### **Committee Reports**

Mr. Kuhlman: Committee reports Planning Commission Mr. Coakley.

Mr. Coakley: We meet next week.

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

Mr. Brown: We meet Wednesday.

Mr. Kuhlman: Thank you, CEDC.

Ms. Gruber: CEDC met last Tuesday and they had all the surveys come in, they chose to pursue the Farmers Market, they also chose to prefer a combined Microbrewery and Chili Cook-off and we are hoping to talk to the Poolesville Day Planning Committee is looking for fundraising ideas and so they were looking to go in cahoots with them to maybe create this as a fundraising for next Poolesville Day.

Mr. Kuhlman: Ok. All right I gave Wade tonight as a member of the Poolesville Day Committee they forwarded the Committee Members their budget from this year, I gave it to him and asked him to make copies of it and put it in your all boxes because Town Hall

has been operating in the dark. The DSL of Verizon hasn't worked since last Friday and Verizon can't figure out what is wrong with it.

Mr. Hoewing: Really.

Mr. Kuhlman: So a lot of good it does to have you on this Board.

Mr. Hoewing: Good Lord all right.

Mr. Kuhlman: Lot of good it has you here.

Mr. Hoewing: Nobody called me I mean Wade had mentioned it but I assumed that was on Saturday...

Mr. Kuhlman: I would have already called you.

### **Town Manager's Report**

Mr. Kuhlman: Town Manager's Report.

Mr. Yost: Just a couple things. We had a couple water main breaks both of them on the same day Thursday last week, we had a 4 inch water main break on Kohlhoss and then an 8 inch broke on Soper Avenue so they were up all night working on that one. Coming up Preston and his crew are going to be doing the ball 3 field conversion we are going to convert it out from a 90 foot baseline to accommodate the smaller kids 60, 65, and 70 foot it will be a multi-use field. We won't be moving the fence in just to save some money on that line item, we are going to leave the fence where it is, Parks Board decided on that so that will save some money.

Ms. Gruber: Which field is that?

Mr. Yost: Halmos 3. Because they are inundated with permits for the younger kids and there are not enough fields so we are converting it and will have an extra one. And Halmos 2 has 90-foot bases there so that will accommodate the big kids, which I think there is only 1 team, it's hard to play against themselves.

Mr. Kuhlman: All right anything else?

Mr. Yost: That is it.

Mr. Kuhlman: Just a sideline note my handicap granddaughter would like to thank you, Preston, the Parks Board, whoever is responsible for the swing over at Bodmer Avenue that she can use, she really enjoyed it. Going back to this burying the utility lines, you referred in a conversation we had a couple weeks ago about this, you referred to a section in the Code Book that required burial, what section is that do you know.

Mr. Yost: John is looking right now.

Mr. Strong: (Inaudible).

Mr. Kuhlman: Come on up to the desk John if you are going to talk.

Mr. Yost: 38 was one of them but that's really generalized it just says "public utilities shall be installed underground".

Mr. Strong: It was section 38 of the Subdivision Code. There was a letter written some time ago and I can't recall the exact date that dealt with this and I will gladly find it for you in the next couple days.

Mr. Yost: It was our position in that letter that yes you have to put them underground and Winchester balked at it a little bit I guess they decided not to fight this fight at this time because that is part of Phase 2 when they do that section along Willard Road.

Mr. Kuhlman: Ok well reading section 38 letter A public utilities general "pipelines, electric power, and energy transmission and distribution lines and cables, telephone and similar cable transmission lines and cables shall be underground".

Mr. Klobukowski: But it doesn't caveat it like only new developments or new construction it just says...

Mr. Kuhlman: No it says public utilities, and it is on page 62 of the subdivision regs if you got your book. As far as I am concerned they are required to do it.

Mr. Yost: That is what we are saying also.

Mr. Kuhlman: Ok but you were shaking your head no.

Mr. Yost: There is an issue of a PIA and some of the verbiage in there too that I don't like, we talked about that before.

Mr. Kuhlman: They had no qualms about different from the PIA in past.

Mr. Hoewing: I have to recuse myself from this but I am almost certain that the Public Service Commission controls that, we don't have any authority, not in existing cable. I mean a development is different but not if they are already out there.

Mr. Klobukowski: So you are saying like Allegheny Power and Verizon lines that are already out there.

Mr. Hoewing: Those aren't all our lines by the way some of those poles are electric utility lines.

Mr. Klobukowski: Are you talking Fisher or are you talking Willard.

Mr. Hoewing: Wherever they are, if they are already there the Public Service Commission runs that and not us.

Mr. Klobukowski: They run that but I think Eddie's point is if you are having a development and you are going through and you are doing major construction and rip up and all that other stuff that it seems like...

Mr. Kuhlman: Not to interrupt you Jerry but to have to add a lane to West Willard Road which is going to require a replacement or repositioning of the poles it doesn't make sense to me to me that is part of the development, they've got to move it to be able to build their development so therefore it is part of the development...

Mr. Yost: Well lets take a look at, a lot of properties how bout the church property when they developed that they didn't bury the lines on 107. Anna Vinci is getting ready to do it does she have to do hers when the church didn't do theirs when they built.

Mr. Hoewing: Because the Public Utilities Commission controls it.

Mr. Yost: I'm just throwing that out there.

Mr. Hoewing: All those poles are if they are not regulated and actually the access to them and everything else is paid by the utilities so I don't think we have any control on it.

Mr. Strong: We have had Montgomery County and other development areas where it was a requirement of the approval by the Planning Commission for the entity to pay for the under grounding of power cables.

Mr. Kuhlman: All right well given that this isn't being done until Phase 2 and who knows when Phase 2 is coming up, keep it on the radar screen and we will deal with it then. All right anything else?

Mr. Klobukowski: I have one thing I don't know maybe is it time for all of us to get updated Code Books based on all with this latest set of...

Mr. Yost: Yes we were waiting for tonight to...

Mr. Klobukowski: Tonight or do you want to wait until the next meeting with all the other stuff I mean I don't care when but I think maybe by the end of the year.

Mr. Yost: Yes I think there are going to be a couple more that we are working on now.

Mr. Kuhlman: Yes there several more yet to come, there is going to be Code Book revisions this winter by the Commissioners.

Mr. Hoewing: More importantly Eddie at the one of the things at the focus group that was really interesting and I think they made a good point was that this kind of stuff should be searchable and online because even at our own meetings we are spending an hour trying to find a Code section if it was actually online he could actually have it up there in 2 seconds we could find it and the citizens can't find it either. So we should be aiming toward that.

Mr. Kuhlman: Ok anything further for the Town Manager?

Mr. Yost: You wanted to talk about the other day you said something about topping off the website since you brought it up.

Mr. Hoewing: That was also raised at the focus group.

Mr. Kuhlman: Yeah I had conversations with Wade the other day because I have heard quite a few comments about our website and none of them are nice, and I asked him and he has gotten a price and I was going to this year when it came time to draft the budget was going to include a line item in the draft budget of I think \$5000.00 to have our website revamped professionally.

Mr. Hoewing: And the truth is that this is the Town if you look at the numbers we are more connected in this Town than any other town in the State, more computers connected to the Internet.

Mr. Kuhlman: If there is a feeling amongst my colleagues that this is a very positive step I would like to go ahead with the fact that we got over a million dollars unrestricted cash, go ahead and get Wade to get some prices together or some different bids and we can go ahead and look at this a lot sooner than the draft budget.

Mr. Brown: Absolutely.

Ms. Gruber: I'm up for it.

Mr. Hoewing: No we have all been saying the same thing and I agree.

Mr. Klobukowski: We've got the money to redo the website but we don't have the money for sidewalks.

Mr. Kuhlman: Well unfortunately Jerry that neighborhood already has a sidewalk.

Mr. Klobukowski: Well I know what you are saying but bottom line is I find that odd.

Mr. Kuhlman: All right Wade if you would go ahead and look into that and get us some prices and report back to us so we can discuss it further.

### **Citizen Forum**

Mr. Kuhlman: All right anything else open forum anybody, nobody entertain a motion to adjourn, we can get home and watch the football game.

### **Adjournment**

Mr. Brown: Motion to adjourn.

Mr. Hoewing: Second.

Mr. Kuhlman: All in favor?

All: Aye.

Mr. Kuhlman: We are adjourned.