



Morrisville Board of Commissioners

Briefing Session

July 9, 2007

1. Call to order

Mayor Faulkner called the meeting of the Board of Commissioners to order at 6:31 p.m. Also present for the meeting were Mayor Pro-Tem Martin and Commissioners Murry, Lyons, Carrow, Johnson, and Snyder. Present staff included Frank Gray/Town Attorney, John Whitson/Town Manager, Diana Davis/Town Clerk, Ben Hitchings/Planning Director, Courtney Tanner/Planner, Michele Hane/Transportation Planner, Tony Chiotakis/Senior Director of Community Services, Julia Ketchum/Senior Director of Resource Management, Jerry Allen/Parks and Recreation Director and Matt Leaver/Recreation Superintendent.

2. Invocation by Commissioner Tom Murry

Commissioner Murry gave the invocation.

3. Pledge of Allegiance – Please Stand

Everyone stood in participation of the pledge of allegiance.

4. Adoption of Agenda

Mayor Faulkner stated that there had been a request to add a closed session regarding property acquisition and personnel related issue to the agenda.

ACTION: *Mayor Pro-Tem Martin* made a motion to adopt the agenda with the change. *Commissioner Murry* seconded the motion, which passed unanimously.

5. Action Items

Tab BB [2006-131](#) Ratify Resolution 2006-131B Public Safety and Municipal Services Building Renovation

Tony Chiotakis, Senior Director of Community Services stated that this item had previously been placed on the consent agenda and approved. There were still bids coming in for the furniture that should be included and this should have been addressed when this item was approved. The current request was to ratify the contract for approval of the construction and furniture costs. There were about 4 bids submitted. Scotia Construction of Cary was the lowest bid for construction at \$580,000 and Store Office Environments at \$308,386.82 was the lowest bidder for furniture. Approval of ratification of the resolution would also permit the Town Manager to authorize this contract.

ACTION: *Commissioner Snyder* made a motion to approve. *Commissioner Johnson* seconded the motion, which passed unanimously.

Tab EE [2007-057](#) Amend Resolution 2007-057B Purchase of Property for Street E Right of Way and Easements

Tony Chiotakis, Senior Director of Community Services stated that the Board authorized staff to proceed with condemnation. In the final design the engineer determined that 2700 square feet of additional temporary construction easement was necessary. In consideration with the appraisal this would increase the cost by \$520.00. The amendment would permit deposit of 185,320.00 for the acquisition of the right-of-way.

ACTION: *Commissioner Johnson* made a motion to approve. *Mayor Pro-Tem Martin* seconded the motion, which carried unanimously.

6. Previously Briefed Items – Updates

Tab I [2007-093](#) Appoint Advisory Committee Members

Diana Davis, Town Clerk stated that there were some updates. There was turn over in the Committees. The initial resolution included Walter Alexander for the Parks and Recreation Committee. Mr. Alexander agreed to serve on the Parks and Recreation Committee, but his initial request was for the Senior Advisory Committee. Supporting staff indicated that there may be an upcoming vacancy and there would be room for Mr. Alexander. The resolution was adjusted to include Mr. Alexander on the Senior Advisory Committee. Additionally, there was an application for the Parks and Recreation Committee submitted by Shellene Walker. With the amount of applicants received for the Parks and Recreation Committee, it was not necessary to have one person serve on two Committees at once.

Commissioner Snyder asked if there was a maximum amount of members for the Parks and Recreation Committee.

Ms. Davis stated that there was not. There were 10 members as the informal limit for the Senior Advisory Committee because staff support felt that 10 members was an appropriate maximum amount.

Commissioner Johnson asked if the two applicants were appointed to the Senior Committee would there be 10 members.

Ms. Davis stated that 1 new member would bring the total to 10. However, there was a member getting ready to leave.

Commissioner Johnson asked about the Community Appearance Committee.

Ms. Davis stated that there was a resignation submitted about 2 hours ago. There were 4 members remaining.

Commissioner Johnson asked about the member count for other Committees.

Ms. Davis stated that the Solid Waste and Recycling Committee (SWARC) was also down to 4 members and it would best if all Committees had at least 5 members.

Mayor Pro-Tem Martin asked about the potential of any of the applicants for the Parks and Recreation Committee to serve on the SWARC Committee.

Ms. Davis stated that every applicant for the Parks and Recreation Committee was asked if

they would be willing to serve on the SWARC. Only 1 person, Stephanie Reed, indicated she was willing.

Tab D [2007-019](#) Adopt Resolutions Pertaining to the Weston Townhomes Subdivision:

- 2007-019A - Site Plan
- 2007-019B - Preliminary Subdivision Plat
- 2007-019C: FDO

Courtney Tanner stated that the developer agreed to additional conditions.

[Clerks Note: Conditions as follows:

1. The corner side setback shown on the site summary data table shall be changed to the correct width of 30 feet.
2. The open space shall be recorded as private, but remain as open space, either private or public, in the future since open space is the justification for the Flexible Design Option request.
3. The number of plants required per 100 linear feet for a Type 'A' Buffer shall be installed along the entire western edge of the property.
4. Ballard lighting shall be added to the sidewalk located between Road "R001" and the private recreation area.
5. Subject to NCDOT approval, a southbound leftover with landscaping shall be installed, and the subdivision entrance shall be redesigned to allow entry of southbound traffic. If a leftover is not permitted by NCDOT, a landscaped median approximately the same width of the current center turn lane shall be installed.]

Commissioner Lyons arrived at 6:45 p.m.

Commissioner Snyder asked about traffic exiting the site going southbound on Chapel Hill and a leftover.

[Clerks Note: A left over is similar to a large island at the entrance to a site to converge traffic in one general direction.]

Ms. Tanner stated that with a leftover, the traffic would not be able to leave the site and be immediately southbound.

Commissioner Snyder stated that further south, there was an apartment complex with a median in front of it. He asked about that median becoming a lane in the future.

Ms. Tanner stated that improvements for this project were only along the frontage of Chapel Hill Road adjacent to this site.

Commissioner Snyder stated that when driving, the turn radius at the end of the median would restrict certain larger vehicles.

Ms. Tanner stated that a standard vehicle could make a u-turn.

Commissioner Snyder stated that there were lots of larger personal vehicles that may cause a back up if they tried to make a u-turn at this location.

Ms. Tanner stated that if the North Carolina Department of Transportation (NCDOT) permitted the leftover that would be prevented.

Commissioner Snyder stated that DOT needed to be made aware of this issue.

Commissioner Murry asked about emergency vehicle access with this site.

Tony Chiotakis, Senior Director of Community Services stated that with the leftover the Fire Trucks could get in. Without the leftover, there would be a negative situation for public safety response.

Commissioner Murry reiterated that this information should be communicated to NCDOT.

Tab H [2007-061](#) Act on a) Resolution 2007-061A Declaring the Intent to Abandon Right-of-Way along Think Place and Setting a Public Hearing Date; and b) Resolution 2006-126B Approving the Think Place Street Closing Order, which abandons the right-of-way in accordance with Section 160A-299 of the General Statutes.

Courtney Tanner stated that the notification requirements were met and there had been inquiries about the sign posted on the sight. The callers were educated about the right of way abandonment process and there were no further issues.

Tab P [2007-097](#) Amend Town Manager's Contract to Clarify Health Care Benefit

John Whitson, Town Manager stated that the Board asked staff to bring back potential changes to the 125 cafeteria plan. There was some concern about employer contribution to the plan. Additionally there was concern about the potential of several employees leaving the current health plan, which could cause rates to increase. In the Town Manager's contract the health care coverage was the same as all other town employees. The Town Manager opted to keep the health coverage with a personal provider. The difference of the amount of cost for health care coverage that was not being utilized would go towards the annual salary.

Mayor Pro-Tem Martin stated that there should be health care coverage. However, if the amount for health care coverage was being paid as part of the salary it was a problem if the rest of town staff could not do the same thing.

Mayor Faulkner stated that the Town Attorney had reviewed the issue and this resolution was related to a distinctive contract with the Town Manager separate than the rest of the staff.

Frank Gray, Town Attorney stated that part of the 125 plan existed for all employees and that was the option plan to contribute pre-tax for medical expenses not covered by the group health insurance plan through the flex spending plan. The Town Manager was covered by a different plan. The contract with the Town Manager was different than employment of other town staff and there was a contract with the Town Manager. The Town Manager currently could not take advantage of the group health insurance plan, so the town was contributing the amount as compensation to the flex spending account to be used as seen fit by the Town Manager for the same kind of purpose as taxable compensation.

Mayor Pro-Tem Martin stated that this was a problem especially when it was not during the regular Town Manager Contract review cycle.

Commissioner Johnson asked about the amount.

Mr. Whitson stated that the amount was \$7,600.

Commissioner Snyder stated that this should be discussed during contract renewal and asked why it was currently an issue.

Mr. Whitson stated that he had handled the situation the same way previously, where \$5000 was being placed in the flex spending plan. The payroll officer realized it may be an issue and should be clearly stated in the contract and so it was being addressed. If this was known at contract time it would have been addressed at that time. The 4 year contract was just renewed 8 months ago and it would be a while before it was up for review again.

Commissioner Snyder asked if this was a common practice.

Mr. Whitson stated that this was handled the same way at his previous position, but he was unsure of other municipalities.

Julia Ketchum, Senior Director of Resource Management stated that there had previously been another Town Manager that had different health coverage than the group health insurance coverage and there was other compensation made in lieu of that.

Commissioner Murry stated that this would be a difference in compensation not currently specified in the contract. This should be covered during the contract renewal time period. Any cost change could occur retroactively. When considering compensation, there should not be adjustments prior to the evaluation which would occur in November.

Mr. Whitson stated that the contribution to the flex spending amount was a maximum of \$5000. If that entire amount was not utilized the difference went back to the Town.

Commissioner Murry stated that versus an increase in compensation it was actually the continuation of a practice negotiated with the only contract employee.

Commissioner Snyder stated that because it was the current conduct did not make it correct and was not the norm.

Commissioner Murry stated that there were very few direct employer contributions to a health savings account.

Mayor Pro-Tem Martin asked if the salary would increase if the insurance went up.

Ms. Ketchum stated that it would.

Mr. Whitson stated that compensation amount would adjust with the health insurance, which may go up or down in cost. Previously, the town had been able to absorb the increase in health insurance rates, but there may be a point where the coverage would be reduced to get the rates down.

Commissioner Murry asked about making this effective for all employees. The amount of employee participation with the group health insurance may not decrease. A change in the Town Manager's contract could be discussed during the evaluation period in 4 months and compensation could be retroactive if that was the Board's desire.

Commissioner Johnson asked about other town staff that may be interested and stated that maybe a survey would help.

Ms. Ketchum stated that there had been discussion among the group and there were some

employees that said that they would pull out of the group health insurance which would cause the rates to shoot up. This would not be in the best interest of the town.

Commissioner Snyder stated that if this was approved it should be available for all town staff.

Mayor Faulkner stated that the Town Manager was in a different position than the rest of the town staff and he had direct contract negotiations with the Board. She asked for the Board's consensus on the direction of this issue.

Commissioner Snyder stated that during the next briefing it may be helpful to offer more information on providing this option for all town staff.

Commissioner Murry asked about combining towns together under one plan to provide better rates.

Mr. Whitson stated that the League of Municipalities provided that service. Currently Morrisville received better rates as a single municipality. It was preferred to stay with the same provider as long as possible, which was easier on the employees. Competitive bids were sought when necessary. The League was always a potential carrier.

Board Consensus was to bring the item for action.

Mayor Faulkner stated that the item may be tabled at that time.

Tab DD [2007-089](#) Morrisville Square Zoning Conditions Execution or Amendment

John Whitson, Town Manager stated that the Town Manager, Town Attorney and Mayor met with Mr. Dzamba and a conclusion was reached which was being offered to the Board for consideration.

1. Mr. Dzamba will submit a new plat for consideration. Approval of the plat will effectively reverse the BOC's 23 FEB 04 plat approval as recorded in the Wake County Book of Maps 2004 page 545 that transferred 2.456 acres from a 10 acre parcel that was to be dedicated to the Town of Morrisville. The approval will also restore the original lot's impervious to pervious surface ratio to 80/20 versus the current 65/35 (current ordinance requirement without credits for reduction in the ratio). The plat shall note that the current developed lot is only required to meet the 80/20 ratio of impervious to pervious surface area. Note, the remaining undeveloped lots must meet standards that are current and in-force at the time of each lot's plan approval which currently permits a maximum of 65 percent of the lot may be impervious surface.

2. After the plat is approved Mr. Dzamba will convey the 10 acre tract of land to the Town of Morrisville as was originally required with the June 22, 1998 subdivision approval. It is anticipated that the conveyance will be completed and recorded no later than 4 JAN 08.

3. Since the town's greenway plans do not currently depict a greenway located within the recorded stream buffer on the eastern boundary of the Morrisville Square subdivision, the town does not have a need for ownership of the 50' buffer that is required to be dedicated to the town. Since there is no longer a public need for this buffer the town should formally approve removal of the condition.

4. Since the NCDOT will not warrant a traffic signal on Morrisville Carpenter Road at the entrance to Morrisville Square, the condition to provide a stop light cannot be met. As with other developments, whenever the NCDOT will not approve a traffic signal that is required by

the BOC as a condition to approval of a site plan, a cash payment-in-lieu of traffic signal installation is appropriate. Mr. Dzamba will agree to contribute \$10,000 to the traffic signal fund in return for not having to provide a stop light. The \$10,000 payment may be made in three installments as follows:

- a. No less than \$2,500 paid on or before January 15, 2008; and
- b. No less than \$2,500 paid on or before July 15, 2008; and
- c. Remaining balance of donation paid on or before January 15, 2009.

Dan Dzamba stated that he was satisfied with what was presented tonight.

Mayor Pro-Tem Martin asked about the amount of payment for the traffic light.

Mr. Whitson stated that there was no policy or set amount for contributions toward traffic lights. At the time conditions were set for this property in 1998 the usual payment amount was \$10,000.

Commissioner Snyder stated that there needed to be a traffic light at Morrisville Carpenter and Town Hall Drive. Maybe development would trigger the installation of a light and the funds could be utilized at that location. This item should be placed on the consent agenda.

Tab E [2007-005](#) Adopt Resolution 2007-005 Pertaining to the Davis Drive Eatery Site Plan

Courtney Tanner, Planner stated that there had been discussions with the property owner. The overall area that permitted public restaurants was reduced and outdoor seating was going to be added. There was limited time for staff review since the last briefing to the Board. Staff recommended another briefing on August 13 with action scheduled for August 27th.

Commissioner Snyder asked about a fence bordering the court area. The main issue was traffic accessibility.

Ms. Tanner stated that there would be a fence with an opening at the sidewalk area.

Commissioner Snyder asked about a fence in the wooded area.

Ms. Tanner stated that the fence bordered the southern property line and the western property line except where there was a sidewalk to Rexmore Court.

Commissioner Snyder asked about putting a fence at the sidewalk area.

Ms. Tanner stated that it was a public sidewalk and the town was obligated to permit free flowing pedestrian traffic. Someone may lock the gate if a gate was put there; the town would have to cut the lock.

Commissioner Snyder stated that the citizens of Wexford Subdivision did not want traffic in the cul-de-sac, and asked why a public sidewalk necessary.

Ms. Tanner stated that staff could not recommend approval without it, due to public accessibility requirements in the code.

Commissioner Snyder asked if the sidewalk had to be at this location.

Ms. Tanner stated that multiple points of access were reviewed. The public right of way abutted this property. There was a required road connection at this location. There was a project located to the west of this area that was being submitted to Cary. With access from

that project, staff determined the intent of the connectivity requirements was met and was able to move from a full access with vehicle and pedestrian to just pedestrian.

Mayor Pro-Tem Martin stated that this was a sidewalk near the pool where children were playing and the residents did not want the sidewalk.

Ms. Tanner stated that multiple points of access were required.

Commissioner Murry asked about the ability of the Board to waive this requirement.

Ms. Tanner stated that would be the Board's decision. Staff could not recommend approval without the connectivity.

Commissioner Lyons asked about a sidewalk removal at Breckenridge.

Ms. Tanner stated that there was some discussion about removal of walking paths in Breckenridge that was topography related.

Mr. Hitchings stated that it was important to note the different recommendations from staff and the Planning and Zoning Board that were consistent with policies to have a connection here. The Planning and Zoning Board wanted to have a connection here, but recommended removal of the southern connection.

Mr. Whitson stated that it may be appropriate to facilitate the process if the Board was prepared to remove the sidewalk. The Board could vote to have the sidewalk removed from all future plans presented.

Town Attorney, Frank Gray stated that it would be fair to the developer to take that action now if that was the Board's desire.

Commissioner Murry stated that the easement should be dedicated even if the sidewalk was not built as there may be a sidewalk desired in the future.

Commissioner Lyons stated that the Homeowners Association would have to install the sidewalk at that time.

Commissioner Murry stated it was not their land.

Ms. Tanner stated that a portion of the area for the sidewalk was a public right-of-way and an easement would not be necessary. If a sidewalk was built later a set of construction drawings would have to be submitted. The other portion necessary for full connection would be on private land and there was not a requirement for an access easement. There would need to be construction drawings submitted and a minor amendment to the site plan.

Mr. Whitson stated that they would have to pay all required submittal fees and the cost to construct the sidewalk. Pedestrian connectivity was a consideration. If there was not a sidewalk or there was no fence, people would make their own path. It was a political decision to either have or not have a sidewalk.

Mayor Pro-Tem Martin asked about signage at the pool area that indicated parking was for residents only.

Mr. Whitson stated that the pool parking lot belonged to the Homeowners Association and that would be their responsibility if that was their desire.

Ms. Tanner stated that there was a recommendation to put passes in the car and vehicles without passes would be towed.

Mr. Whitson stated that the parking lot could be posted as well.

Mayor Faulkner stated that the sidewalk should stay until the entire plan was submitted with the updates.

Ms. Tanner stated that update included the initial restaurant with added outdoor eating. The rest of the shops would be retail and medical. The overall parking would be decreased from the initial site plan submittal.

Commissioner Murry asked about the parking.

Ms. Tanner stated that parking during the peak period would be reduced by the changes to the site plan.

Commissioner Lyons asked how removal of the sidewalk would affect the progress of the process.

Ms. Tanner stated that design changes could be made during the Construction Drawing Review period.

Commissioner Johnson stated that there was too much planned for this site. Less restaurant space did not reduce the overall square footage.

Ms. Tanner stated that the developer removed the restaurants in an attempt to get project approval.

Commissioner Johnson asked about the location of the dumpster, which was behind the residential units versus the pool parking lot.

Ms. Tanner stated that the dumpsters were located where they were to provide the necessary space and correct angle to get the dumpster unloaded.

Commissioner Johnson stated that the reduction of restaurant space did not satisfy the concern that there was too much development.

Ms. Tanner stated that the owner was told that the Board envisioned one project there and not having the site maxed out with development.

Mayor Faulkner agreed with Commissioner Johnson. There was currently one restaurant. She asked about the possibility of future additional restaurants on the site.

Ms. Tanner stated that the recommendation was to cap the restaurant use area at 1600 square feet of indoor public restaurant and there would also be a cap on the outdoor dining.

Mayor Faulkner asked if this would be recorded.

Ms. Tanner stated that the location of the restaurant could change, but there would be an overall cap on the amount of restaurant area permitted on the overall site.

Mayor Faulkner stated that there were probably other areas where this development would be

appropriate, but this was a lot for this corner lot.

ACTION: *Mayor Pro-Tem Martin* made a motion to remove the second sidewalk entrance. *Commissioner Lyons* seconded the motion. The motion passed with six yeas (*Mayor Pro-Tem Martin* and *Commissioners Murry, Lyons, Johnson, Carrow* and *Snyder*) and one nay (*Mayor Faulkner*).

Commissioner Snyder asked about the fence.

Ms. Tanner stated that the fence would cover that area if there was no sidewalk located there.

Mayor Faulkner stated that the nay vote was not an indication that the sidewalk should not be removed. It was due to the fact that the Board should wait to discuss this issue when the updated site plan was submitted with the recent changes that were discussed.

[Clerks' Note: *Mayor Faulkner's* comment made prior to the "good of the order" portion of the agenda.]

7. New Items

Tab C [2007-112](#) Adopt Resolution Pertaining to the Amendment of the Wexford Subdivision to Remove a Sidewalk

Ms. Tanner stated that at the June 11th Briefing Session a resolution was presented that removed the sidewalk connection between lots 81 and 82. If the Davis Drive Eatery was approved the developer would pay the costs of the removal of that sidewalk. If that development was not approved the source of these funds would be unknown. The Wexford HOA, the town or a combination of both would pay for the sidewalk removal.

Commissioner Snyder stated that the other option was to leave the sidewalk.

Ms. Tanner stated that was correct. The Planning and Zoning Board expressed concern and recommended removal to get the developer of Davis Drive Eatery to bear the costs. *Sergeant Champ* stated that the more activity there was the less likely there would be crime. But to have a sidewalk leading to a wooded area created a risky environment. He felt strongly that it should be removed.

Commissioner Snyder stated that the sidewalk had been there for a couple of years and asked if it had been a public safety issue yet.

Ms. Tanner stated that there were no crimes associated with that area.

Commissioner Snyder stated that the town should not bear the costs.

Mr. Hitchings stated that the current situation was that the town could potentially bear the cost if the Davis Drive Eatery Project was rejected.

Ms. Tanner stated that if the Davis Drive Eatery was not approved, the next person to develop the site may bear the costs. The Planning and Zoning Board held some discussion on the matter and felt that if the Wexford residents did not want the sidewalk, they should bear the cost of the removal. Other members felt it was an undo burden on the residents. At that time the developer agreed to bear the cost to move the project along.

Tab A [2007-106](#) Adopt Resolution 2007-106 to enter into a Municipal Agreement with NCDOT

for sidewalks on Airport Boulevard (NCDOT TIP U-3344-A)

Michele Hane, Transportation Planner stated that NCDOT was widening Airport Boulevard from McCrimmon southwards to NC 54. The signed contract did not include sidewalks. The project was too far along for NCDOT to consider a cost share with the town. The town will bear 100% of the costs. This was acceptable as the right-of-way was already acquired by NCDOT, which saved the town money. This would be to replace the gaps between sidewalk areas along Airport Drive.

Commissioner Johnson asked about potential grant funding.

Ms. Hane stated that CAMPO had surface transportation funds to pay for bike/ped transit projects, which staff applied for. This was the first year that it was available and about 5 communities applied. The odds look good for Morrisville to receive some funds.

Tab B [2007-110](#) Adopt Ordinance 2007-110 to prohibit parking in bicycle lanes.

Michele Hane, Transportation Planner stated that there was recent traffic calming studies on Parkside Valley Drive. There was striping laid down that marked a bike lane located there. People have been parking in these bike lanes. The Police Department contacted the Planning Department because vehicles were passing over the double yellow line in the center when cars were parked in the bike lane. This was a violation and the parking was impeding traffic. No parking in bike lanes would address this issue before other bike lanes were installed. Currently Parkside Valley Drive was the only road with a bike lane.

Commissioner Lyons asked about taking action tonight.

Mr. Whitson stated that the Board did not generally vote on a public hearing night.

Frank Gray, Town Attorney stated that there was not a legal requirement for a public hearing.

Board Consensus was to take action on July 23rd after the public hearing.

Commissioner Johnson stated that a public hearing had been listed on the agenda.

Commissioner Snyder stated that the Board could take public comments through a Public Input Session for this item.

Board Consensus was to have a public input session and take action on July 23rd.

Tab N [2007-095](#) Adopt Resolution to Establish the Morrisville Christmas Parade

Jerry Allen, Parks and Recreation Director stated that a Christmas Parade had been discussed previously by the Board. The Greater Raleigh Merchants Association (GRMA) and the town staff have had discussions about this. The previous budget year closed, which permitted staff to identify temporary use funds made available by roll over. The estimated cost was \$20,000 with \$8,000 going directly to the GRMA. The other funds would go towards the actual costs associated with the Christmas Parade for floats, bands and other attractions. Any funds collected from the Christmas Parade could go back to the town to cover these costs.

Mayor Pro-Tem Martin asked about the amount of floats.

Mr. Leaver, Recreation Superintendent stated that would be verified. GRMA would bring a lot of the same merchants and participants that were involved with the Raleigh Christmas Parade. There were currently 5 parties interested in floats.

Mayor Pro-Tem Martin asked if there would be a better estimate prior to signing the contract.

Mr. Leaver stated that would be done and there would be an attempt to increase interest in the floats.

Commissioner Lyons asked if the parade would be held on Town Hall Drive.

Mr. Leaver stated that appeared to be the best option so far but there would be further discussions required with the Town of Cary and the Morrisville Police Department. There would be some areas that required road closure and there were some areas that would actually be in the Town of Cary.

Commissioner Murry asked about sponsorship being high enough to decrease the burden to the town.

Mr. Leaver stated that the first \$20,000 in proceeds would go to the town and the rest would be split: 35% to marketing, 15% to GRMA and the remaining percentage to the town.

Commissioner Murry stated that the Raleigh Christmas Parade was already being advertised and Morrisville should advertise as well.

Mr. Leaver stated that the Christmas Parade date was set for December 1st.

Mayor Faulkner asked about moving the action date up to the July 23rd.

Mr. Allen stated that would be beneficial and would permit the GRMA to allow more exposure for the Town of Morrisville and provide a better recruiting effort.

Commissioner Johnson stated that school bands should be contacted soon to permit them to set their schedules.

Mr. Leaver stated that the GRMA enlisted large sponsors, which Morrisville hoped to draw interest from.

Commissioner Johnson asked about the date of the Cary parade.

Mr. Leaver stated that the only other Christmas Parade set for the same date as Morrisville was the Apex Christmas Parade, but their parade was in the afternoon.

Commissioner Johnson asked if this was the same weekend as the tree lighting ceremony.

Mr. Leaver confirmed that was correct.

Tony Chiotakis, Senior Director of Community Services stated that funding was coming from the Parks and Recreation Department this year, but in following years it was not guaranteed that the funding would be available. Sponsorships may provide the necessary funding, but it was not guaranteed.

Commissioner Lyons asked about vendors.

Mr. Leaver stated that there was a contract with a concessionaire, and there would be other vendors with flags, hats, noise makers or other items.

Board Consensus was to take action on this item July 23rd.

Tab V [2007-055](#) Adopt Resolution Adopting Close out Agreement for Breckenridge Subdivision, including a Site Plan Amendment

Tim Gauss, Senior Director of Development Services stated that this was the first briefing for the Breckenridge Warranty Closeout. This project was in development for a long time. The residential portion and public facilities had been completed for some time and staff would like to bring this project to a successful conclusion from the perspective of the town, developer and residents. From the town's perspective all requirements needed to be met. The developer wanted to make sure all items with the town were addressed appropriately and end their financial commitment to the development. The residents would like to ensure that all requirements made through approval procedures and ordinances were met.

Mr. Gauss presented the current items being worked on as follows:

1. Reimbursement to Town for Kinnard ROW Greenway Trail (off Willingham to Northern Property Line [To RTP Property]) Not Constructed

Background: The greenway trail located within the Kinnard right-of-way (ROW) running off Willingham north to RTP was shown on the original preliminary plat within the ROW of the street stubbing to the north. However, the stub road requirement was eliminated, even though the ROW dedication and the greenway trail were retained as part of the plan. In response to concern that the trail might not lead to any other facility, RTP has submitted a letter to the Town indicating that eventually a jogging trail/greenway/sidewalk is to be constructed parallel to the roadway along Little Road just north of the Breckenridge property. The Kinnard greenway trail in Breckenridge would be a logical tie-in to the Little Road pedestrian facility. The letter from RTP estimates the jogging trail/greenway/sidewalk is anticipated within a five to ten year period and the State would need to permit any stream crossing. The Town position is that constructing the Willingham trail at this time would be premature.

Resolution: *Staff recommends amending the site plan to remove the greenway. Pulte is to pay the Town for the Willingham trail not constructed. Pulte and the Town staff have agreed to a value of \$20,899.80.*

2. Reimbursement to Town for Internal Greenway Trail Not Constructed

Background: A second greenway trail internal to the Breckenridge Subdivision running between Parkside Valley Drive north to Willingham was shown on the original site plan. Construction was initiated by Pulte but then discovery was made by the Town that it conflicted with a sewer line. Pulte was directed by Town staff to stop work (although staff was not formally authorized to halt work [Board-approved condition to construct the trail]). An agenda item has been previously submitted to the Board of Commissioners to formally authorize the work stoppage after the fact; the item has been continued with no action to date and will be pulled from the Board's schedule, to be integrated as part of the current briefing sheet.

Resolution: *Staff recommends amending the site plan to remove the greenway. Pulte is to pay the Town for the internal trail not constructed (net of Pulte's work prior to the work*

stoppage). *Pulte and the Town staff have agreed to a value of \$49,351.50.*

3. **Payment to Town for Traffic Signal**

Background: The original preliminary plat contained a condition requiring Pulte to pay for a traffic signal. A figure of \$30,000 is owed for a traffic light on Davis Drive at Parkside Valley Drive (the traffic light has been installed).

Resolution: *Pulte is to pay the Town for its portion of the signal; Pulte and the Town staff have agreed to the value of the signal reimbursement at \$30,000.*

4. **Walking Trail Around Lake (Lake I and Lake II HOA's)**

Background: A condition of preliminary plat approval requires construction of a walking trail around the lake located in the Lake I and Lake II neighborhoods. The land around the lake on which the trail might be built is now owned by two homeowners associations - the Lake at Breckenridge Townhome Association, Inc. (Lake I HOA) and the Lake II at Breckenridge Townhome Association, Inc. (Lake II HOA). Pulte would need to obtain an easement from the HOA's to construct the trail. In response to sentiments expressed in opposition to construction of the trail, staff requested Pulte to approach all affected HOA's (Lakes I and II, plus the Master HOA for the entire subdivision) to determine their interests in having the trail constructed. Pulte has approached the Lake I and Lake II HOA's because both are responsible for all the maintenance and cost associated with the lake; the Master HOA for the entire subdivision was also contacted. All three have indicated they would not like to have the trail constructed; rather, they would prefer Pulte provide alternate improvements as a private agreement between Pulte and Lake I and Lake II. Pulte is willing to construct the trail or accede to the wishes of the HOA's. Removing the conditions to construct the trail requires approval of a Site Plan Amendment by the Board of Commissioners.

Resolution: *The HOA boards have submitted written documentation requesting the Board of Commissioners amend the site plan to not construct the walking trail; if the Board approves the site plan amendment, the trail obligation will be removed from the site plan at which time Pulte will fulfill the alternate obligations as a private matter between Pulte and the HOA's; the Town would not participate in these discussions. If the Board of Commissioners denies the request, Pulte shall construct the trail.*

5. **Acceptance of Streets and Other Public Facilities**

Background: To date, some public streets within Breckenridge have been accepted for public maintenance; however, many have not. There are also other public facilities not accepted for Town maintenance. Expedient acceptance of streets and other public facilities by the Town is in the best interest of residents (they understand and expect that road maintenance is properly a function of local government, paid for by their taxes); the developer (they build roads; they are not in the business of long-term maintenance); and the Town (we are staffed for that purpose, and the inventory of public roads serves as the basis for Powell Bill funds). Prior to acceptance of the roads and other facilities, Town staff will have inspected the streets and facilities to note deficiencies to be corrected, and will have also asked the HOA to identify any problems.

Resolution: *The Town has conducted field inspection of the streets; is in the process of discussing with Pulte and the HOA's the items to be addressed; and is in the process of inspecting the repairs made to correct items identified. Once the repairs and*

inspection have been completed and Town inspection procedures have been met, the roads are ready to be assumed by the Town for public maintenance.

Other items discussed by Pulte and Town staff over the last several months were being addressed but not a part of this formal agreement, such as:

- **Park Site**

Stabilizing and improving the park site on Parkside Valley Drive is the responsibility of the Town, and is not affected by this agreement.

- **Stormwater**

Stormwater issues range from drainage problems on individual lots to an unauthorized installation of stormwater lines not consistent with approved construction drawings. Stormwater items are identified on the “Breckenridge Punch list Items” letter dated June 20, 2006. Town inspectors are evaluating the drainage issues to determine if the problems are private matters (exclusively on private property) or if public systems are involved; Town staff will coordinate with Pulte on any outstanding drainage issue, and we understand that Pulte is working to resolve the stormwater line installation issue (surety is in place to guarantee resolution).

Mayor Pro-Tem Martin asked about a fence or other protection around the lake.

Mr. Gauss stated that protection could take a lot of forms based on the concern. If the concern was losing footage and rolling there were trees and other vegetation to keep someone from falling into the lake and the slope was not steep except near the roadway.

Mayor Pro-Tem Tem asked if residents were aware that funds were coming to the town from the developer.

Mr. Gauss stated that those were funds for the walkway. There was a good amount of money that would not be spent on the private walking trail. The town was not participating on how those funds would be spent, instead that was being determined by the developer and the Homeowners Association through their agreed upon list of improvements.

Commissioner Johnson asked about the time frame of these negotiations.

Mr. Gauss stated that the developer could provide that answer.

Commissioner Johnson stated that she was concerned about the walkway around the lake. If the town was not involved what assurance was there for those 2 parties to reach an agreement. It would be better if these negotiations were settled as part of this process.

Mr. Gauss stated that there was legal representation on both sides.

Mayor Pro-Tem Martin stated that if things did not work out with the walking trail the town would hear about it.

Mr. Gauss stated that the town would rely upon the Homeowners Association to carry on negotiations with the developer.

Commissioner Lyons stated that needed to be in writing.

Commissioner Johnson stated that it would be better to have some kind of resolution prior to action on this item.

Commissioner Murry stated that was because this was a town condition the Board would be waiving.

Mr. Gauss stated that the project manager, Chris Roughley was available.

Chris Roughley, Pulte Homes stated that there were already agreements with Lake One and Lake Two Homeowners Association that were already signed. The agreements were legally binding. Some of the improvements would be done immediately.

Commissioner Johnson asked about references in the items about working with the HOA. She asked if this was the management companies, the individuals that were present from different HOA's or was it all the residents.

Mr. Gauss stated that the road improvements and public facilities were worked through by staff. The field inspectors would walk through the sight and work with Pulte staff to verify adequate work. Staff also asked the HOA for comments on needed improvements, which would be evaluated to determine if the interest was public or private.

Commissioner Johnson asked if the HOA was the management company or individuals that serve on the HOA.

Mr. Gauss stated he would verify.

Tab W [2007-099](#) Adopt Resolution Pertaining to the BOC Briefing and Action Items Schedule

John Whitson, Town Manager stated that Commissioner Snyder asked if there was a written policy as to determine how items were scheduled to come to the Board. There was an unwritten policy that was created in a verbal fashion that staff executed. Recently an item was expedited and Mayor Pro-Tem Martin questioned the reason. It may be necessary to have this schedule in written form. This was a resolution to form a policy.

Tab Y [2007-100](#) Adopt a Resolution setting the town's policy concerning town funding of STIP projects

John Whitson, Town Manager stated that this item was alluded to during the budget process. The Long Range Financial Plan (LRFP) and budget isolated Transportation Projects for state roads. It was discussed to have state road projects in the funding scheme when they were included on the State Transportation Improvement Plan (STIP). This would be done by adoption of this resolution. When the project became listed on the STIP, the Board would start the process. A bond referendum would go before the voters. If this was approved the town would complete the state project. As part of that approval there would be a tax increase to cover the deficit until NCDOT reimbursed the funds.

Mayor Pro-Tem Martin stated that he was concerned with traffic. But this policy would lock the Board into not spending money on this issue. As much as it was difficult to spend money on DOT roads, sometimes there are smaller projects, such as a curve in the road that could be completed.

Mr. Whitson stated that a curve in the road would not be a DOT project. DOT projects were major such as the Airport Boulevard Project or the grade separation at Hwy 54.

Mayor Pro-Tem Martin stated that there was no dollar figure noted in the resolution.

Mr. Whitson stated that the resolution referred to the source, which was to be reimbursed by DOT.

Mayor Pro-Tem Martin asked about the minimum amount for a project on the STIP.

Mr. Whitson stated that he was unsure of a published amount or if a bottom threshold even existed. Typically projects came from CAMPO, who would determine what the overall regional needs were.

Mayor Faulkner stated that a lot of Morrisville's projects were combined with Cary's to create a more regional impact.

Commissioner Snyder stated that there should be a public input session at the July 23rd Business Meeting due to the impact to citizens.

Commissioner Snyder stated that there should be verbage included that states that when the DOT reimbursement was received the tax rate would be decreased.

Mr. Whitson stated that he would include the language, but the tax rate decrease was included in the spreadsheet was well.

Commissioner Lyons asked about the vehicle license tax being used for roads.

Mr. Whitson stated that funds from any increase could only be utilized for transportation.

Commissioner Lyons stated that the state and the town were always looking for ways to fund road improvements that the citizens already pay taxes for. It was like a triple tax.

Mr. Whitson stated that there was a gas tax used by the state for funding. And the town received Powell Bill funds for maintenance from the state.

Commissioner Lyons stated that she heard the gas tax was going to be raised.

Mr. Whitson stated that there was currently a cap on the gas tax.

Commissioner Lyons stated that this needed to be put out to the public and they needed to be aware when this time comes that they will be making the decision.

Mr. Whitson stated that the town would advertise how much of a tax increase would be created with voter approval.

Commissioner Murry stated that Mayor Pro-Tem Martin did not like spending money on DOT roads. What was really bad was the transfer of fund from the Highway Trust Fund. That should be stated in a resolution because that was part of the problem. Plug up the hole and stop the flow of money out of the State Transportation Funds.

Mr. Whitson stated that this resolution was not to be combative with the state, but to address the issue with the public to resolve issues with state roads.

Tab HH [2007-116](#) Adopt Resolution to accept Shiloh Sanitary Sewer Construction Contract

Blake Mills, Town Engineer stated that Jim Jatko with Taylor Weisman and Taylor was the

engineer on this project. This project was approved by the Board on March 27, 2006. The sanitary sewer extension included 40 houses, with 28 being in the first phase. The bulk of the properties were along Church Street. Some were on Watkins and a few were on NC 54 and McCrimmon. The second phase consisting of 12 properties that were in this phase because there was construction within the proximity of the properties that would lend in getting sewer to that location. A few properties will have dry service until the sewer connection was made through development. Some easements would have to be acquired.

The properties would carry a lien for a period of five years and the total would be reduced by 1/5th per year. This total would be the amount of the installation and would not include the acreage fees or developer fees, which would be waived. This had to be done for public purpose although some of the property owners were uncomfortable with this. They could choose to not connect and the town would still install the main line sewer.

John Whitson, Town Manager stated that the property owner would have sewer in front of their property. If their septic tank failed later the line would be available. However, at that point it would be entirely at their expense and they would be required to pay the development fees and connection fees. The five year lien was a no harm lien and if the property was sold, they would owe the town up to about \$2000. Funds were held back during the merger to complete this project.

Commissioner Murry asked about the condition of the septic systems.

Mr. Bills stated that had not been evaluated. During surveys it was apparent that some were not in the best condition. There were also reports of a failed septic tank.

Tony Chiotakis, Senior Director of Community Services stated that the soil in the area was not conducive to long term septic uses.

Mr. Jatko stated that there were a few residents that were concerned with additions to houses. The code would require an increase to the septic systems to accommodate an addition.

Commissioner Johnson asked about the construction period.

Mr. Mills stated that the goal was to complete prearrangements for construction prior to September.

Commissioner Johnson asked about updates.

Mr. Mills stated that there would be another brief prior to action and there would be a bid opening on August 15th. There would need to be before and after pictures. The Town Engineer would need to be onsite to ensure the project was carried out correctly. There would be some land and tree disturbance and some blasting necessary to clear rock.

Commissioner Snyder stated that some of the houses in the second phase would receive sewer when development such as Kitts Creek Condos occurred, so what would happen if that development was not approved.

Mr. Mills stated that when the development did occur the developer would be required. This project was not contingent on that particular development. Dry sewer would be put in. The main sewer line would be put in and as soon as the manhole related to the development was completed, that sewer would be hooked up.

Commissioner Snyder stated that citizens needed to understand that if and when a development occurred, the sewer would be completed in their yard.

Commissioner Lyons asked about the need to start the project and put in dry sewer that would not be functional.

Mr. Mills stated that the process should start to lessen the risk and reduce cost that would be associated with inflation. The public would see that something was being done. The goal was to finish the first phase by March of 2009. The phase 2 property owners could be notified by mail that there will still included in the project list.

Mayor Faulkner recessed the meeting at 9:17 pm and reconvened the meeting at 9:27 pm.

8. Previously Briefed Items – No Updates

Tab F [2007-074](#) Adopt Resolution 2007-074 pertaining to the Consistency Statement and Ordinance 2007-074 approving the Public Safety and Municipal Services Building Parking Lot Expansion Rezoning Request to Office and Institutional (O&I) (REZ 07-02)

Tab J [2007-068](#) Adopt Resolution 2007-068 approving the Pennington Property – Land Use Plan Amendment to Low Density Residential (LDR) (LUP 07-01)

Ben Hitchings, Planning Director stated that the applicant was attempting to address comments that were given by Commissioners, which may take a while. The applicant submitted a letter to table Tab J and K until September.

Commissioner Snyder stated that this was a 47 home development proposed along Church Street. Church Street was overcrowded and the Board should use due diligence in considering this issue.

Tab K [2007-069](#) Adopt Resolution 2007-069 pertaining to the Consistency Statement and Ordinance 2007-069 approving the Pennington Property – Rezoning request to Residential-6 Conditional Use (R6-CU) (REZ 07-01)

Tab L [2007-079](#) Adopt Resolution 2007-079 pertaining to the Consistency Statement and Ordinance 2007-079 approving the Zoning Ordinance Amendment to Part C, Article XII – Off-Street Parking and Loading Standards

Tab M [2007-078](#) Replacement Detached Dwelling - Adopt Zoning Ordinance Amendment to Part C, Articles IV and VI

Ben Hitchings, Planning Director stated that this Ordinance related to the replacement of a detached dwelling under very specific circumstances. The structure would have to be on the National Historical Property list that had to be moved due to road improvements. This structure would have to come before the Board for Site Plan approval. Given the conditions for this occurrence it was suggested that the Board consider permitting administrative review.

Commissioner Murry stated that the requirements of this ordinance narrowed the possibility of this situation occurring.

Tony Chiotakis, Senior Director of Community Services stated that the conditions were restrictive. The Board was seeking ways to shorten Board Meetings. This provided that opportunity because the guidelines set were very clearcut. It would be advisable to permit staff to have approval authority on this type of change, which was replacing an existing home with another existing home.

Commissioner Murry stated that this was a sensitive process with several contingencies.

Mayor Faulkner agreed.

9. For the Good of the Order

- Administrative Matters
- Commissioner Comments

Mayor Pro Tem Martin suggested placing flashing yellow lights on the speed limit signs on Town Hall Drive, which was very close to a school.

Mr. Whitson suggested that the first step may be to add flags. A work order was already turned in to the Public Works Department to take action. This would bring attention to the signage as a low cost option. If flashing yellow lights were used there would be a cost to install an electric meter and the associated cost for the electricity.

Mayor Pro-Tem Martin asked about the amount of vehicles in the parking lot during meetings.

Mr. Whitson stated that there were 3 town vehicles. The Inspection Department vehicles were moved within the last year. Shortly, the Planning Department would move and there would only be 2 vehicles left. Staff will monitor the situation and move vehicles if necessary.

Commissioner Johnson thanked staff for the Pancake Breakfast, which was a wonderful event.

Jerry Allen, Parks and Recreation Director stated that between presale and sales at the event, 455 tickets were sold.

Commissioner Snyder asked about the Police Department's Mustang being in an accident.

Mr. Chiotakis stated that the first accident involved a rear end collision. The appropriate action was taken. The second situation occurred when the Mustang was parked behind a fire truck on scene. The firefighter failed to walk around the truck and backed into the vehicle. The appropriate action was taken for failure to follow procedure.

Commissioner Snyder asked about the light at Hwy 54 and McCrimmon.

Mr. Whitson stated that he had been advised that the light would be fully operational by the end of July.

Commissioner Murry stated that staff needed to get an update from DOT regarding Church Street.

Mr. Gauss stated that he would follow up.

Commissioner Murry stated that it may be good to consider placing benches and/or shelters at bus stops in Morrisville as a benefit to citizens.

Mr. Whitson stated that if there was a commitment from TTA for permanent service, staff would follow up with that request.

Commissioner Murry stated that Morrisville had no low income housing, which should be considered during review of the Land Use Plan.

Mr. Whitson stated that Morrisville did have award winning affordable housing. There were different ways to have that type of housing. It could be a requirement with every development to have a certain

amount of affordable housing. The affordable housing could look just like the rest of the housing in the development. There could be a house and the townhomes next door would be attached and appear the same as the one house.

Mr. Hitchings stated that affordable housing should be considered suitable for work force salaries.

Mayor Faulkner stated that this could be addressed during LUP update process.

Commissioner Murry stated that Wake Tech had a bond referendum being considered in this election cycle. They were considering land in this area and there was a need for potential students as well. This type of housing would be beneficial.

Mayor Faulkner stated that the Board should address a recent request submitted by the SWARC Chair.

Mayor Pro-Tem Martin stated that if the other members were not making statements it should be handled at the Committee level.

Commissioner Snyder asked about staff involvement or efforts to try to reconcile differences.

Mr. Chiotakis stated that there had been some discussions but no direct action regarding this issue. The Chair to that Committee asked that this be an agenda item at the next SWARC Meeting.

Commissioner Johnson stated that the Board had been requested to get involved. Maybe a Board Member should participate at the SWARC Meeting.

Mr. Chiotakis stated that the Town Clerk has stated that there have been problems with getting people involved and serving on that Committee due to a particular personality.

Mayor Faulkner stated that they could have their meeting and then forward approved minutes to the Board who would address the issue if necessary at that point.

Commissioner Lyons stated that members could not be removed from Advisory Committees just because they did not get along and asked who was taking minutes.

Mr. Chiotakis stated that it was the member that acted as the secretary. However, it should be the responsibility of the staff, which fueled some of the existing issues. A staff member would be taking minutes at the next SWARC Committee to create unbiased minutes.

Commissioner Johnson stated that this had been discussed previously.

Mr. Whitson stated that it was the staff's duty to write minutes and the member would not relinquish that duty.

Commissioner Johnson asked about the Charter.

Mr. Whitson stated that it indicated that staff would support the Committee.

Mayor Pro-Tem Martin stated that staff should take minutes.

Board consensus was for the staff to take minutes for Board and Committees.

10. Closed Session

ACTION: *Commissioner Murry* made a motion to go into closed session to discuss land acquisition and personnel matters pursuant to N.C. General Statutes § 143-318.11(a)(5) and (a)(6). *Commissioner Snyder* seconded the motion, which passed unanimously.

Mayor Faulkner called the closed session to order at 10:08 p.m.

ACTION: *Commissioner Snyder* made a motion to adjourn the closed session. *Mayor Faulkner* seconded the motion, which passed unanimously.

Mayor Faulkner adjourned the closed session meeting at 10:37 pm.

10. Adjournment.

ACTION: *Commissioner Murry* made a motion to adjourn the Briefing Session. *Commissioner Snyder* seconded and the motion carried unanimously.

Mayor Faulkner adjourned the meeting at 10:38 pm.

Minutes were adopted this the 27th day of August, 2007.

Jan Faulkner, Mayor

<SEAL>

Diana R. Davis, Town Clerk