

COMMISSIONERS OF POOLESVILLE
MEETING OF DECEMBER 7, 2009

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

Public Hearing

Mr. Kuhlman: Good evening ladies and gentlemen this is a public hearing on proposed Ordinance number 179 that would add to Chapter 2 Administration Section 2.2 Notice of Foreclosure Required. This Ordinance in addition to all other requirements concerning real property foreclosure under State law whenever an order to docket or a complaint to foreclose a mortgage or deed of trust is filed on residential property located within the Town of Poolesville. The person authorized to make the sale shall notify the Town of Poolesville. This notice will be delivered to the Town of Poolesville within 5 days after the order to docket or complaint to foreclose a mortgage or deed of trust is filed in court. The notice shall be addressed to the Town Manager and delivered to Poolesville Town Hall, 19721 Beall Street, P.O. Box 158, Poolesville, Md. 20837. The notice shall include the street address of the residential property subject to the foreclosure action, the names and addresses if known of all owners in a residential property subject to the foreclosure action and the name, address, and telephone number of the person authorized to make the sale. Copies of this Ordinance have been available at Town Hall. The file for tonight's public hearing contains the following exhibits: proposed Ordinance No. 179, a notice of public hearing and copies of the November 25 and December 2, 2009 issue of the Poolesville Gazette containing the notice of public hearing. Any person wishing to do so may now testify or ask questions about the proposed Ordinance after giving your name and address. The only speaker we have signed up is Mr. Pearce.

Mr. Pearce: Good evening ladies and gentlemen. I am Robert Pearce, 20300 Westerly Road. I was hoping that the minutes from the last meeting would enlighten me as to the discussion on this but they didn't do much on this Ordinance. I'm basically was supposed to when I came in having just read it tonight and looked at the minutes with hardly any discussion of it at all. I see that the State allows you to add this Ordinance. I am not sure what the benefit is to the Town because I don't know that you can go out and collect taxes, I've never been foreclosed on but I believe it is a rather lengthy process and I'm assuming at some point the Town is notified anyway. How would mortgage holders in California and Texas know that they have to abide by an Ordinance in the Town of Poolesville? I don't know whether the State is going to put something into their documents on foreclosure that says oh by the way you have to submit it to Poolesville also. There is basically no discussion in here other than the State said we can do it and therefore we should do it. I don't know what is going to happen once this information comes into the Town. I think the people that are being foreclosed on are already in a bit of stress, so to make it public knowledge in the local Town to me is not a very charitable thing to do, whether that happens or not, I don't know but it will be public information

available to anybody that wants it. I don't think the Town is going to bail them out, I hope not with our tax dollars so that is not going to happen. And if somebody in California or Texas that holds the mortgage doesn't comply what recourse do you have on that. So to me it is a and I would like to see more discussion on how you think you are going to enforce it, what the process is, if the State has a process that they will enforce it for you or what. And as a general statement it would be nice if you had public hearings something at least after the minutes are available on the Internet. The minutes where this was talked about was November 16, I don't think they have been approved yet, oh they were approved I'm sorry November 2, approved November 16, I'm not sure I didn't look up today whether it is on the internet or not so it may be by now I was looking before I went away 2 weeks ago and it wasn't up yet. But those are my comments, I don't see the need for it and if there is a need I would like to know a little more, tell the public a little more about it.

Mr. Kuhlman: Trying to answer a couple of your questions Mr. Pearce it is not the Town's objective to advertise this as far as advertising you can pick up almost any local paper, the Journal, Montgomery County Journal, the Gazette, the foreclosures are advertised in there and the names of the foreclosee are in there publicly. Our intent is especially some of these properties that are foreclosed on in the summertime, we end up having to mow the grass when it gets to bad and out of control, we are trying to and the State law does allow us to do this, we are trying to take a step further in trying to collect any monies that the Town expends in trying to maintain the property while it is going through the foreclosure process and prior to the sale. The intent is hopefully that we will acquire information as to who the trustee and the lawyer is that is going to be making the sale and we can give them the bills that we have expended for either lawn maintenance, water bills, or so forth and so on so we are not out anymore money than we can be on income.

Mr. Pearce: How does the foreclosure agent or whatever the person that files the foreclosures how...

Mr. Kuhlman: They are supposed to know the local laws and you are correct most of the mortgage companies will be in California or Texas or out of state but the trustee's in-state attorney generally in Baltimore and they are supposed to know to check local laws for this kind of Ordinance.

Mr. Pearce: Does the State law say that they are going to publish, from what I got from your minutes the State law says you can pass this Ordinance, it doesn't say you have to but does the State law have a provision in it that they will then list the towns that have passed Ordinances for anybody to...

Mr. Kuhlman: I believe that might be true, I'm not positive, the last session last year had a lot to do about foreclosure in quite a few of their bills and I know all the laws haven't been placed on the book or finalized yet into print.

Mr. Pearce: Ok well again a little more information on this kind of thing would be useful to people trying to figure out what is going on with instituting something like this.

Mr. Kuhlman: Point taken Sir thank you. All right that was the only speaker we had signed up is there anybody else wishing to say anything? Seeing no hands that concludes the Public Hearing on Ordinance 179 the record will be held open until the close of business this Friday at Town Hall, which is 4:00.

Call to Order

Mr. Kuhlman: With that in mind I call the Commissioner’s Meeting of December 7 to order. For the record all Commissioners are present as well as Town Manager, Mr. Yost, and Town Attorney, Mr. Wright. Our first order of business will be the Pledge of Allegiance, Mr. Klobukowski 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 everybody for that. Given the date December 7, 68 years after Pearl Harbor I would like to request that we all take a moment of silent prayer to remember those military and civilian people that lost their life on that day and also for all of our sons, daughters, mothers, fathers and relatives that are presently in the military right now. All right thank you very much for that. I would like to under announcements congratulate the Community and Economic Development Committee, Town Staff, and the sponsors of this past Friday night’s Winter Lights Ceremony, it was great, we had good music, decent weather it was a little chilly but it was a wonderful event and I think everybody that came out had a good time. Are there any other announcements from any Commissioners?

Mr. Klobukowski: Yes as you know the Keep Monocacy Elementary School Open movement exceeded and we received a letter both myself individually and the Commission from Shirley Brandman, President of the Board of Education which says “Thank you for writing Montgomery County Board of Education about the Superintendent’s recommended closure of Monocacy Elementary School. After careful consideration the Board of Education at its work session on November 19, 2009 did not approve the Superintendent’s recommended procedure for closure of Monocacy Elementary School and the consolidation of students at Poolesville Elementary instead the Board approved the establishment of a round table work group charged to develop approaches to address the underutilization of the Poolesville cluster schools. Upon completion of the round table process the developed approaches will be forwarded to the Superintendent of schools no later than June 2010. The Superintendent of schools will then prepare recommendation to address the underutilization of Poolesville cluster schools as part of the FY2012 Capital Budget and amended FY2011- 2016 CIP. The Board’s adopted Resolution is enclosed for your review. The Board appreciates our comments and having taken the time to share our thoughts and recognizes the strong partnership among County leaders as essential to the success of our public schools. And attached to the letter as it says is the Resolution that was offered by Dr. Judy Docca. Thank you.

Mr. Kuhlman: All right any other announcements?

Approval of Minutes

Mr. Kuhlman: Hearing none we will move on to the approval of minutes of November 16th is there a motion for approval?

Ms. Gruber: Motion to approve the minutes.

Mr. Kuhlman: Is there a second?

Mr. Brown: Second.

Mr. Kuhlman: All in favor?

All: Aye.

Mr. Kuhlman: All right approved.

Open Forum and Citizen's Comments on Agenda Items

Mr. Kuhlman: All right open forum and citizen's comments on agenda items. Is there anybody with a comment on tonight's agenda items, our first business will be discussing the December meeting schedule. The Commissioners are scheduled to meet on the 21st I am going to suggest that we cancel that meeting, is there any comments. Speed Camera MOU is off the agenda and amend Ordinance No. 122 – Forest Conservation, if you would give a little update of what that is Wade in case anybody wants to comment on it.

Mr. Yost: Sure this is amending the existing Forest Conservation Code to update it to the State's more stringent requirements. Fees have gone up and the lot size for triggering forest conservation has gone down from 40,000 square feet to 20,000 square feet and there is a little miscellaneous items in it that the State has placed in to the Ordinance itself and we always adopt the State's Forest Conservation Ordinance.

Mr. Kuhlman: Ok anybody care to make a comment. Mr. Pearce.

Mr. Pearce: Robert Pearce haven't moved since the last comment. I drafted the original Forest Conservation Ordinance and I'm a certified Forest Conservation delineator and if the Town needs review, technical review of anything on it I would be happy to do that.

Mr. Kuhlman: Thank you very much for your volunteer Sir appreciate it, anybody else. All right and under Old Business, Ordinance No. 178 the Alternative Energy anybody have anything they want to say. Mr. Speelman you got 3 minutes tonight.

Mr. Speelman: John Speelman, 19961 Fisher Avenue, Poolesville Hardware. I understand that one of the main issues of the wind energy system that I would like to put up was the aesthetics of it. So after going back to the drawing board the current one I wanted to put up is on the right, they do have one now that looks like the original style on the left, it is about 10 feet shorter in height and it has a little larger footprint. So this would also do the job that I need to be done. So we'd go back and revisit this and I just want to lower my electric costs.

Mr. Kuhlman: Ok any comments? Thank you Sir. All right anything in general Mr. Roit.

Mr. Roit: Bob Roit 17301 Dowden Way. Several of the sitting Commissioners have heard me come up and do my diatribe about snow plowing in the cul-de-sacs. Well I would like to compliment whoever the driver was that did Dowden Way Saturday night because they actually took the time rather than make one quick sweep at the narrowest point, he took three sweeps and opened the whole section up and I just wanted to pass along that I appreciate it, my back appreciates it.

Mr. Kuhlman: Good thank you Sir.

Mr. Hoewing: Wade who made that mistake. Sorry.

Mr. Kuhlman: All right anybody else have anything just in general.

New Business

Mr. Kuhlman: All right seeing no hands we will move on to the new business and the first item is the December Meeting Schedule. As I said we would normally meet on the 21st. Discussing it with the Town Manager there is no impending important business that we need to get done so I am going to suggest we cancel that meeting. Is there any disagreement to that?

Mr. Klobukowski: No.

Mr. Kuhlman: All right than our next meeting will be January 4. And then the State of the Town will be on January 18 where you will hear reports from all the department heads and everybody else. All right amend Ordinance 122 Forest Conservation, Wade.

Mr. Yost: Alan you want to walk through this?

Mr. Wright: Yeah. As Wade indicated there is some changes to the language of the Statute and this draft that you have has some blue highlights that suggest the changes from the State which they would like us to, which they require us to actually or enact all are indicated in blue. Some of them I put them all in because some of the requested changes are already in our Ordinance and those are indicated in blue but they are not underlined. The underlined language is the new, the changes to what we already have that we now have and that includes decreasing the size of the lots of the parcels that are affected from 40,000 square feet to 20,000 square feet and you will see that throughout the Ordinance, it will be listed 20,000 square feet, shows up in blue. Non-compliance fee is increased from 30 cents per square foot to 40 cents per square foot plus they have added a reference to the inflation index. There is a penalty that can be assessed by the Planning Commission that's increased from 30 cents a square foot to a dollar per square foot, and a potential fine that is increased from \$1000.00 to \$5000.00. The Annual Report requires a little bit of additional information, that is in Section 7.8. Size, location and protection of any local forest, mitigation banks, number, location and type of violations, and type of enforcement activities, size and location of all conserved and planted forest areas, etc. And they have added a reference to additional trees, shrubs, plants in specific areas that are considered priority for retention and protection. I think that is about it.

Mr. Kuhlman: And all these changes are being mandated by the State?

Mr. Wright: That is right.

Mr. Kuhlman: All right so what do we need to do set this for a Public Hearing?

Mr. Yost: Yes we do.

Mr. Kuhlman: All right.

Mr. Hoewing: Alan does that mean that we can't really amend the blue that is in here. Like the 20,000 that can't be amended, 20,000 square feet.

Mr. Wright: 20,000 square feet was underlined, is what it's being changed to.

Mr. Hoewing: You have to take the same language.

Mr. Yost: We could make it more stringent.

Mr. Wright: Or we could make it more stringent.

Mr. Hoewing: On the square footage is that a quarter acre what is that.

Mr. Kuhlman: Oh a half acre, about a half acre.

Mr. Hoewing: Wow forest conservation on a half an acre. A subdivision I understand but you are talking about individual houses, it doesn't apply to that or does it, half acre individual house too or just subdivision.

Mr. Wright: It means any grading or construction activities occurring on a specific tract that is now it would read 20,000 square feet or greater.

Mr. Kuhlman: All right do I need a motion to set this for a Public Hearing on January 4th?

Mr. Klobukowski: Do we need a motion or do we just do it.

Mr. Kuhlman: Ok we will just do it. Set it for a Public Hearing on January 4th and we will have that and if you have got an extra copy there give Mr. Pearce a copy before he leaves because he did the original one, it would be nice to hear what he has to say.

Old Business

Mr. Kuhlman: All right old business. Ordinance 178 the Alternative Energy, where are we at here Mr. Yost.

Mr. Yost: Well we have had public hearings, we've had some discussions, some work sessions with the Planning Commission so I guess it is time to start tackling the issue. I don't know if you want to break them down one by one between wind energy or the solar or geothermal. That is kind of how we did it with the Planning Commission, we worked through each to the issues.

Mr. Kuhlman: All right any Commissioners have any comments?

Mr. Brown: Would it be possible for us to just potentially as we said break it down by the three categories that are primary, wind turbine, geothermal, and solar.

Mr. Kuhlman: That is fine with me.

Mr. Brown: And then get into on each one potentially we can see where we stand individually and if one needs to be broken off, can one be broken off for later and further discussion.

Mr. Kuhlman: Doesn't make sense to, you are going to be in the same section it makes more sense to me to...

Mr. Brown: Hold them all off.

Mr. Kuhlman: If you want to hold off you hold the whole thing off.

Mr. Brown: Ok.

Mr. Klobukowski: I agree with Jim if we are going, if one area deserves more in depth discussion and examination of the facts than I think we should give it that and if it means we break it down into wind, solar, geothermal that is fine with me and it makes sense because I don't know who gave this, Link was it you who forwarded this draft of this Ordinance...

Mr. Hoewing: Wade did.

Mr. Klobukowski: From Connecticut.

Mr. Kuhlman: Oh Bob off the Planning Commission.

Mr. Klobukowski: Ok and the bottom line is there is a lot of stuff in here that I would like to see in ours about the power use, speeds, etc. I think some of that stuff is germane to our Ordinance because again we are going to do this once, we are not going to go and do this...

Mr. Yost: If we allow it you are right I agree.

Mr. Klobukowski: If we allow it so if we are going to really do this, if we are going to be serious about it than we do it once and that is it.

Mr. Kuhlman: I apologize Jerry I thought it was Bob Bachman from the Planning Commission but evidently it is Bob Pearce. It was just signed Bob. That is fine with me to break it down I am just saying if we are going to approve a package and have the books changed this is all on the same page so why would you go through 2 revisions in the Code book.

Mr. Klobukowski: No you wouldn't I am saying.

Mr. Kuhlman: Ok that is what I am saying. I have no problem with breaking it down to 3 categories we've already kind of done that but I understood the question to be to say

vote on solar systems and geothermal for the record and change the Code book and then still deal with wind energy for example.

Mr. Klobukowski: I interpreted it as we would vote on each individual segment and then put the Ordinance together as a whole.

Mr. Kuhlman: Well the 3 segments and then you have to vote on the Ordinance as a whole, when you are happy with the 3 segments that is fine with me. All right so who wants to start?

Mr. Brown: Hang on for just a second lets just make sure we have it straight, we are voting on each individual segment.

Mr. Kuhlman: You are voting on wind energy, solar energy and geothermal those are the 3 segments.

Mr. Brown: Right and then on the basis of the vote outcome of those votes we are going to vote on the overall.

Mr. Kuhlman: Overall Ordinance.

Mr. Wright: What you would be doing technically would be amending the draft Ordinance by either eliminating something that you don't want or adding some amendments and then when you get the whole package amended to where you like it than you vote on it up or down.

Mr. Kuhlman: Yeah the 3 votes you are looking for are straw votes to get to a consensus on the Ordinance. The Ordinance is what has to be voted up or down.

Mr. Brown: Understand.

Mr. Kuhlman: So if nobody has any complaints we will take the least contentious first, geothermal, anybody have anything they want to say there. The recommendation for the audience is that geothermal loop system only be permitted in all the zones by right.

Mr. Brown: I'm ok with it as is.

Mr. Klobukowski: So am I.

Ms. Gruber: No need for change.

Mr. Kuhlman: Ok so that is five votes ok there. All right solar system. The recommendation is that for solar system for on-site production be permitted in the 1/3, 1/2, 3/4 and the multi-family and the RDT. It would be a Special Exception in the Commercial and CBD, comments?

Mr. Brown: No need for change.

Mr. Klobukowski: I have one question just to refresh my memory, where do the distances and the heights come on the solar?

Mr. Kuhlman: Its flat to the roof.

Mr. Yost: Its ground mount. 14 foot is the same as the height of a shed or a structure in your yard, we kept it all in conformance with accessory structures as defined in the Code now, heights, setbacks, everything.

Mr. Klobukowski: That makes sense with respect to the way the panels need to be, does it comport with general installation requirements.

Mr. Yost: Yes.

Mr. Klobukowski: Ok.

Mr. Yost: We sat down and actually met with one of the solar companies.

Mr. Kuhlman: All right Jim said he is all right with it, Jerry, Lori.

Mr. Klobukowski: Ok.

Mr. Hoewing: Just refresh my memory again Wade why do we have a Special Exception in the CBD and the Commercial when it is basically allowed any place else in Town.

Mr. Yost: Aesthetics only and there is a special caveat as far as the commercial and CBD that it would not be seen from any roadway, which there was comments at the Public Hearing regarding that issue. But aesthetics is the whole reason for the Special Exception.

Mr. Kuhlman: Yes or no?

Mr. Hoewing: It just seems weird because residential I mean if you had a whole block that decided to have solar and they are all putting solar panels on I mean aesthetically it is going to be probably more noticeable than it would be one building here.

Mr. Yost: I think it was just to protect the integrity of the character of the downtown area.

Mr. Hoewing: CBD may be a little more understandable since there is more historical buildings there but not in commercial.

Ms. Gruber: I thought that the view from the road that comment had been taken out of the...

Mr. Yost: Well nothing has been changed yet but I just wanted to bring it to your attention as we start getting into the issues that is something we need to look at. Nothing has changed yet.

Ms. Gruber: Ok.

Mr. Hoewing: Yeah 15 still says screened from the road, all roadways doesn't it.

Mr. Yost: And that could be pretty challenging for Selby's would be one.

Ms. Gruber: I think we need to take that out.

Mr. Hoewing: If you have a Special Exception anyway why would you have to keep it visibly screened from the roadways, I mean and not do it in residential areas I mean there must be a way to do it I would think in some cases that would be all right.

Mr. Klobukowski: The question is, visibly screening it, does that cause a problem with the efficiency of the solar panel.

Mr. Hoewing: Sure it would have to because sometimes you are not going to have a southern exposure you are in trouble.

Mr. Klobukowski: We are not distinguishing between tilted and non-tilted like that one publication "Solar electrical footprint of the United States", they talked about ones that basically are they don't move, ones that are tilted and ones that attract the sun, stationary that tilts and then ones that attract the sun.

Mr. Yost: We had a discussion on that at the Planning Commission but didn't want to break it down and specify what types were not allowed, the aesthetic portion we looked at it and then on a residential they had to be flat and conform with the roof, couldn't go over the edges, things like that.

Mr. Klobukowski: All right.

Mr. Kuhlman: Ok Link.

Mr. Hoewing: I guess I just don't know why it has to be in there, I think if we have a Special Exception and they come up with something that is gaudy and doesn't fit, that is what we did with CVS we essentially worked with them for months and got them to accept something, that is what you do, so I say we ought to take that note 15 out myself.

Mr. Kuhlman: So yes or no?

Mr. Hoewing: Yes with note 15 removed.

Ms. Gruber: And I change mine to that also.

Mr. Brown: So would I.

Ms. Gruber: I thought that they had rewritten, that it was rewritten with the comments that had been made in the last work session.

Mr. Hoewing: And we want to put a note that says the Special Exception is for the purpose of assuring aesthetically pleasing or some language like that applications that would be fine too, how we frame it that makes it actually do with the way the character of the Town, fits into the character of the Town, whatever we can use as language.

Mr. Kuhlman: Well I intend to vote no because I don't see any reason to make them go through a Special Exception and pay the price to file that when all we are asking is to try to conform with the architectural guidelines, how much does a Special Exception cost?

Mr. Yost: \$650.00.

Mr. Kuhlman: Yeah to me that defeats the whole purpose I mean we have talked about wanting to go green, quite a few Commissioners have given a lot of dialog to that, I don't see a reason, I understand that there should be some review but I would rather the review be before the Planning Commission or someplace where it isn't going to cost them \$650.00 on top of an expensive solar system.

Mr. Klobukowski: That is part of your factored in cost.

Mr. Kuhlman: Well you are entitled to believe that Jerry I am not. I don't think it is right, I don't know why when you look at how they could mount a solar system I mean there is I called Wade a week or two ago there was a picture in the Frederick paper of some organization up there that has an awning on their building now that is solar paneled, you can't tell it by the picture I want to ride up and look at it but \$650.00 to any one of those small businesses up there is a fair chunk of change and I don't think it is right. So that is 4 for and 1 against.

Mr. Brown: Well hang on a second is there an avenue that 15 could be removed but the aesthetic component could still be placed under review, I mean I think that is the only concern.

Mr. Hoewing: The Architectural Guidelines do not apply, would not apply in this case I don't think. What we have with the Architectural Guidelines is when you have new construction like we had with CVS than we could make them do it, this case I don't think you can, those are guidelines they are not rules they are not regulations.

Ms. Gruber: So you just do it by permit and establish the guidelines in this Ordinance.

Mr. Yost: I was thinking the same thing. It would be reviewed through a regular permitting process.

Mr. Wright: Well if you had the criteria set forth in enough specificity as to what they have to comply with.

Mr. Klobukowski: Does that cover John Strong's cost for review?

Mr. Yost: I don't think that John would actually have to review that I mean it could be the Planning Commission themselves or just George and myself we review other permits so I don't see that as an engineering.

Mr. Kuhlman: Its to cover the advertisement for the Special Exception, the Public Hearing, Court recording, John if he has to look at something, its to try to recover our expenses, that is the reason behind the fee.

Mr. Klobukowski: Ok because I think one of the things here too is to keep it intimated here but I don't recall seeing it in the words about in the event of lost utility power you

talked about wind turbine what about solar feeding into the power lines, we don't want to surprise any utility men up on the line with anything they are not expecting.

Mr. Hoewing: Unless they are putting it in themselves they will have a system that actually does prevent feedback that is how these things are set up so I don't think that's a problem.

Mr. Klobukowski: But the thing is the Ordinance this Ordinance I am looking at has words to that effect, there are no words in there about that and I think that is one of the things you want to have John Strong look at just to verify that what they are putting in is adequate in preventing...

Mr. Yost: We don't do that the County does all electrical, so we don't look at any electrical of anything any permit that comes in, if you come in to do a kitchen and have all the electrical we don't look at it at all.

Mr. Kuhlman: This isn't much different than somebody coming in and asking to build a deck or garage. We ask them for \$30.00 for a building permit and the Chairman of the Planning Commission or his designee looks at the plan and approves it himself.

Mr. Klobukowski: Well I think this deserves a little bit more attention.

Mr. Kuhlman: I don't, why, what are you looking for?

Mr. Klobukowski: Well I can remember one person signing off on a garage that a person put in down in Hunters Run and without any input by the neighbor and I understand the neighbor wasn't too happy when they found out what happened.

Mr. Kuhlman: If the garage meets all the setbacks and lot coverage then...

Mr. Klobukowski: Yeah but by the same token we aren't talking I just think this is something that deserves greater attention. I mean there is nothing wrong with being green but the same token I just want to make sure that all the I's are dotted and the T's are crossed, it may seem a little extreme.

Mr. Kuhlman: Well to me you pretty much have it covered in residential, it has to be flat to the roof, if its free standing it can't be over such a height, what is somebody going to do in the commercial district or the CBD that is different than that to warrant having to pay \$650.00 additional money to get it done.

Mr. Hoewing: The only thing I can think of Eddie on flat roofs for example you are going to have to angle them up so they could look, it could get obstructed that is one thing they should look at but that is what they would do in a review.

Mr. Kuhlman: If the building has a flat roof you are right.

Mr. Brown: But would we have to establish guidelines to potentially deal with that.

Mr. Hoewing: Well you've got them, if you take the same guidelines that are here for residential and put them on commercial I mean they basically could make it obstructive is what it would say, they can't make it, its going to be on the roof they can't make it angled way up, those are the two things that would make it most visible and not really fit in too well. And if you wanted to make reference to the Savannah Guidelines I think you could but I don't see how it would make any difference other than the roof having a shiny surface instead, its not going to make a big difference I don't think. But that is what the Planning Commission is supposed to do is to look at those kinds of things.

Mr. Brown: So if we remove 15 the Planning Commission would still review and still be able to potentially change a non-aesthetic solar system in the CBD and the Commercial District.

Mr. Hoewing: Well just because it is permitted doesn't mean, the Planning Commission reviews all those anyway, they still have to get a permit and even in the case of CVS they were permitted to do that, we did not give them approval until we were satisfied with the design that is what happened, it took months but we got it and that was just all negotiations because there was nothing that told them they had to build that building.

Mr. Kuhlman: And you could now take a \$650.00 charge down to \$30.00.

Mr. Klobukowski: But you are saying, Jim said the Planning Commission, Eddie said the Chairman so which is it, is it the entire Body or one person?

Mr. Hoewing: Well it depends, when I was the Planning Commission Chairman on things that were small like adding a garage I didn't have to review the Commission because they didn't care about that, those things are not normally obstructive, they are normal things you can get, when it is something big when the CVS came in we all spent months on it. That is what the job of the Planning Commission is Commission Chairman is, if they make a mistake they are going to know it.

Mr. Kuhlman: Yeah normally Jerry if you apply for a building permit for a free standing garage, an attachment, a deck, it generally is the Chairman and or his designee that can approve it. If he has questions in his mind he takes it to the entire Planning Commission.

Mr. Klobukowski: Yeah but the incident I cited was more than just a little shed, it was a two car garage as I recall.

Mr. Kuhlman: If it is a two-car garage and it meets the setbacks and the lot coverage and the height what do you take it to the Planning Commission for, the Chairman can read the book and find out.

Mr. Klobukowski: Right but I think there was something owed to the neighbors to find out about what was being planned.

Mr. Kuhlman: He had a right to build it.

Mr. Klobukowski: Let me ask you one instance here too, the wind ordinance that Bob sent us talks about flickers.

Mr. Hoewing: Flickers, you mean light reflecting from the blade.

Mr. Klobukowski: Yeah I am just wondering about the solar panels where they are directed as to whether or not that would cause a problem for somebody where it was shining in a room or something.

Mr. Hoewing: You could get that with a sign you could get that with quite a few different reflective surfaces including windows frankly they reflect too.

Mr. Brown: Well even though it has been still a vague answer on how the actual review process would be as far as I am concerned I'm thinking that we are not going to have enough instances of this to worry about really anyway so I would probably change my opinion to just removal of 15 from the restrictions on...

Mr. Hoewing: Still a Special Exception though?

Mr. Brown: Still Special Exception yeah unless there is considerable sentiment from everywhere else about that I am willing to be convinced otherwise.

Ms. Gruber: I agree with Eddie that the fee is hefty for something that can be handled by a permit, if you set the rules, you set the guidelines and you have them present they shouldn't be charged a \$650.00 fee.

Mr. Brown: I am only concerned about recovering the Town's costs whatever it is that is the only place I am coming from, \$650.00 sounds punitive.

Mr. Wright: Basically if this is a design standard and it could be done by a permit, if it's a use question, whether this is an appropriate use at a particular location than it is more appropriate for a Special Exception and our Ordinance as it is presently written says that among other findings that have to be made to grant a Special Exception you have to show that there is a need for it, that could be amended but that is the current standard, that does not a multiplicity of uses that certainly not too many of them have given locations and some other rather general kinds of standards that have to be met but the applicant for a Special Exception has to show that those criteria are met, that its consistent with the Master Plan, that its not going to be a detriment to any of the neighbors or Town.

Mr. Brown: So if anybody wants to do a solar system under the Commercial or the CBD they would go through a regular permitting process, they could go through a regular permitting process and that regular permitting process would be reviewed either by the Planning Commission or by the Planning Commission President but unfortunately there doesn't appear to be any guidelines in terms of the aesthetics built into that review.

Mr. Hoewing: That is actually true I mean basically at least when they submit something like a garage you don't ever frankly other than to see the height, does it meet the setbacks, you don't care what the design is that is really not a consideration.

Mr. Klobukowski: Well that is not totally true.

Mr. Hoewing: It is totally true.

Mr. Klobukowski: If Mr. Sherwood now maybe I am misunderstanding how you are saying it, but Mr. Sherwood across the street from me had a two-car garage with an attic.

Mr. Kuhlman: He exceeded the height limit.

Mr. Hoewing: But as I said height and setbacks that is not design. Now on the other hand major construction like the CVS was different I mean it was permitted but we knew that there are requirements...

Mr. Kuhlman: It was allowed.

Mr. Hoewing: Yeah it was allowed but there was we have what we call the Savannah Guidelines in the Planning Commission I mean the Planning document and it does have what structures ought to look like generally so they shouldn't stand out.

Mr. Kuhlman: But that only applies to the Commercial and CBD.

Mr. Hoewing: Only applies to commercial.

Mr. Klobukowski: Yeah at first they weren't going to be applied either as I recall, it took a little bit...

Mr. Hoewing: Yeah they didn't want to do it there is no question about that.

Mr. Klobukowski: Well we weren't even going to apply them because I was at the meeting. I agree with Jim.

Mr. Brown: So I would still love to see something in there to protect the aesthetic but it sounds like it's the bare minimum is in place, is that what you guys are talking about over there or not.

Mr. Kuhlman: Well a suggestion for you is make it across the Board all zones are permitted but must go through Planning Commission review.

Mr. Yost: And we probably want to have some type of...

Mr. Kuhlman: Guidelines.

Mr. Yost: Something, that is pretty arbitrary if some guy comes in and you say no to him but yes to somebody else, some kind of guidelines.

Mr. Kuhlman: Well you look at Mrs. Dietz she is in a residential house but she is in the CBD. Any one of the 5 of us could put one up by right, but she has got to pay \$650.00 because her house is in the CBD to put one up that would meet all the guidelines of all the other permitted uses, I can't go for that, if you want to permit them across the Board but it has to be reviewed by the entire Planning Commission at permit for all of them. You get your review, you get somebody looking at it making sure that it isn't going to be a blight on the community and they pay the \$30.00 and its over and done with and if they are aggrieved by the Planning Commission's decision they can always file an appeal with the Board of Zoning Appeals.

Mr. Klobukowski: I recommend we table this until the next time because if we are going to have somebody look at it, if it is 1 person or the complete Planning Commission Body I would like to see a checklist that they go through just to say that they have met some sort of criteria.

Mr. Kuhlman: We just discussed that while you were having your private conversation.

Mr. Klobukowski: I apologize it takes me awhile sometimes to collect my thoughts.

Mr. Brown: Review for us again would you.

Mr. Kuhlman: That it be permitted across the board and be subject to Planning Commission review and criteria be developed that has to be approved on all of them.

Mr. Brown: That is exactly what we were talking about. We came up with it over here before you did.

Mr. Kuhlman: No all right so develop the criteria and get back to us.

Mr. Yost: Ok.

Mr. Kuhlman: All right so we will put that on hold until the criteria comes back.

Mr. Brown: Hang on lets just get that straight, when the criteria comes back and we all agree upon it I think we have a solid direction on this then, we just have to agree upon the criteria really at that point.

Mr. Kuhlman: That would be nice to think that.

Mr. Brown: That is where I am headed.

Mr. Hoewing: Just one more clarification, what are we asking them to give us criteria on? We already have guidelines in there that say they can't do certain things like they can't go over the edge of the roof so it has to stay on the roofline, it has to be flat, if it is in the backyard it can't be above a certain height, what else do we want them to do?

Mr. Kuhlman: It has to have some criteria for the commercial and the CBD, they were evidently concerned about it because they made it a Special Exception.

Mr. Hoewing: They did yes.

Mr. Kuhlman: So you are going to make it a permitted use so develop some criteria that covers your reason for a Special Exception.

Mr. Hoewing: Ok, got ya ok.

Mr. Kuhlman: All right solar systems for production for off-site use are not allowed in any zone except the RDT under Special Exception, comments?

Mr. Brown: Mr. Kuhlman why don't you go ahead and tell us what you think first.

Mr. Kuhlman: I plan on voting against this thing vehemently, I oppose it.

Mr. Brown: Thank you.

Mr. Kuhlman: I oppose it because it is not an agricultural use in the Ag zone, you are allowing somebody to set up a very commercialized business, fortunately I did check with the State of Maryland and we are not a net meter state so this can be done but they

would have to apply to the State of Maryland for a Certificate of Public Need before they would be allowed to operate this business and if you are going to allow a commercial business of this type than why not allow Mr. Speelman to sell his expensive commercially tact property and go down and buy a piece of the RDT and open his Hardware Store up there, where the taxes are so much cheaper.

Mr. Klobukowski: Well wouldn't that by effect change the use of the land even though it is already being...

Mr. Kuhlman: But it doesn't change the property tax.

Mr. Klobukowski: It wouldn't change the tax?

Mr. Kuhlman: No.

Mr. Yost: Because the zone doesn't change.

Mr. Kuhlman: The zoning changes the tax not the use.

Mr. Klobukowski: But then don't you get it through some sort of licensing fee.

Mr. Kuhlman: No a prime example there are two properties being developed right now with houses, one of those properties 30 years ago changed the zoning in our tax map and everything, he was paying thousands of dollars a year in real estate taxes to the Town, the other property owner had everything but didn't officially change it, his tax bill to the Town for decades was \$301.00, then it probably got changed. I don't see the strategy or the need behind this. To me it sets up an elitist business that can operate in the Ag zone and circumvent paying commercial taxes so I intend to vote no.

Mr. Klobukowski: Well what about other jurisdictions within the State, how are they handling it.

Mr. Kuhlman: Montgomery County does not allow solar in any Ag zone for off-site production. You call down to the County and you will spend a month trying to find somebody that can answer the question of why they don't allow it and I doubt you will find anybody that can answer that question, but it is not allowed. So there is one no.

Mr. Brown: Thank you for going first.

Mr. Kuhlman: It was your request normally I go last.

Mr. Brown: I realize that and I appreciate it. Is there no mechanism to tackle this from a tax standpoint beyond what has been discussed?

Mr. Wright: Well I'm not sure whether this is, I was just asking Wade whether the tax rate is different in a commercial zone than it is in a residential zone or simply the fact that your assessment is going to be higher because you can use the property for a lot of more different things so therefore it is more valuable. It is more valuable if you can have a retail store there so what you are talking about if you start amending a zone like the RDT zone to allow a Hardware Store or a wind farm or whatever you start adding things basically the assessments may creep up because you are adding value, you are allowing more things to be operated there, it becomes a more valuable piece of property. I don't know how the tax assessors do that exactly but they come in with their assessment based on a lot of factors including whether you are in a commercial zone or in a strictly residential zone.

Mr. Brown: Eddie would it be fair to have George give us one more go round on what the Planning Commission's thought process or is that...

Mr. Kuhlman: That was the subject of their last meeting and there were no changes or modifications coming forward.

Mr. Hoewing: Right.

Mr. Brown: Got ya.

Mr. Klobukowski: The thing of it is too is we don't have the, we are not empowered by the State to put some sort of special tax on them like the County is that they just passed now what the, did they pass the Bill about if you have a hotel in your town or something in your town municipalities can tax, have a room tax on the Bill.

Mr. Kuhlman: No the Session hasn't started Jerry.

Mr. Klobukowski: No but did they do that last year?

Mr. Kuhlman: No it was a Bill suggested but it never went anywhere.

Mr. Klobukowski: Ok but my point is that bill would have empowered the Town municipality to do that but we would need something similar to that as well.

Mr. Kuhlman: There are municipalities searching the or requesting the right to impose a hotel motel tax, municipal hotel motel tax.

Mr. Klobukowski: But this is something like this if you change it to say solar power or solar farm and you wanted to --- the revenue from it the State would have to empower us through a law.

Mr. Kuhlman: This is just like an old folks home or nursing home, number one they have to do is they have to go to the State and ask that Commission for a Certificate of Public Need and without that issuance of that need they are dead in the water, but if they got that permit issued by the State than I just cannot see them coming to our Ag Reserve and doing this business and paying Ag taxes.

Mr. Klobukowski: I would expect them to pay the same taxes.

Mr. Kuhlman: You may expect them to but there is no reason, there is no legal way to charge it.

Mr. Klobukowski: Well that is what I mean. You would have to have something from the State that would have to empower us to allow us to do that.

Mr. Kuhlman: Anyway you have my no vote, your votes?

Ms. Gruber: I'll say no.

Mr. Kuhlman: Mr. Hoewing?

Mr. Hoewing: One thing they did discuss at the last meeting was if you have that, the property across from the Hartz' that is RDT for example so...

Mr. Kuhlman: Yeah that is 18 acres.

Mr. Hoewing: So you theoretically could have a solar farm right there coming into Town, which wouldn't be very attractive. They had pictures of wind farms in Florida that actually looked pretty nice but they were all aerial so I don't know what they look like when you get on the ground but I suspect with a lot of panels sitting there it probably wouldn't be too attractive, but I don't think we are going to get frankly anybody applying for it, I mean we haven't seen it anyplace else in the State so I think I would agree with you, it was kind of a ridiculous discussion I don't think we are going to have that kind of thing happen here anyway. On the other hand just keep in mind in the RDT it isn't just, even in the Town, its not just rural uses you can have a gun range on them, there are a lot of things that aren't rural uses that we allow in the RDT, not that I am saying we should allow this but there are.

Mr. Kuhlman: I understand.

Mr. Hoewing: Maybe we should review that and say we shouldn't have all these.

Mr. Kuhlman: I'm all for that.

Mr. Hoewing: Well we are not growing anything on this land either in most cases, it's not like its really rural.

Mr. Kuhlman: Is that a yes or no?

Mr. Hoewing: I'll go with you.

Mr. Brown: Doesn't matter. I'm a no.

Mr. Kuhlman: Jerry.

Mr. Klobukowski: No.

Mr. Kuhlman: All right so that is 5 no's for that so that is dropped. All right small energy wind systems on-site use will be permitted only and this is the Planning Commission recommendation will be permitted only within the RDT zone with height limitations of...

Mr. Hoewing: Its on page 5. Setback limitations.

Mr. Kuhlman: Yeah system heights shall not exceed a maximum height of 75 feet if located on a parcel, lot or a parcel less than 1 acre in size or maximum height of 150 feet if located on a parcel greater than 1 acre and the blade tip shall be at least the lowest point at least 30 feet above the ground, comments or vote?

Mr. Klobukowski: Well I have some comments, if it is only in the RDT you probably aren't going to have to worry about shadowing and flickering, that is another thing that happens, you know its like driving down the road in a wooded area, trees on both sides and some areas you got a constant motion which drives a lot of people nuts like me. I don't know about anti-climbing shroud that was one of the things that was in the Ordinance we were sent and I think possibly that is a good idea to have.

Mr. Hoewing: It has requirements that you can't have any step holds lower than 12 feet, same notion.

Mr. Klobukowski: Well this thing I am looking at says the climbing apparatus for a structure 10 feet above the ground or anti-climbing shrouds over the bottom of the structure so it could be either or. And then again you are saying that the County would be responsible to verify that in the event of loss of utility the power of the turbine would not back feed to the dead power line.

Mr. Kuhlman: So is that a yes or a no vote Jerry?

Mr. Klobukowski: It says here system heights shall not exceed a maximum of 75 feet that doesn't include blade height right?

Mr. Yost: Yes it does in the description the height of it is described as the highest point of the blade not by the head itself.

Mr. Klobukowski: Ok all right.

Mr. Kuhlman: So a yes vote for this?

Mr. Klobukowski: Yeah.

Mr. Hoewing: Does a yes vote mean that we are just going to approve exactly the entire recommendation?

Mr. Kuhlman: As proposed here.

Mr. Hoewing: As proposed here so that means ok.

Mr. Brown: Without further comment since I am undecided on this my vote is a no to as it is right now.

Mr. Kuhlman: Lori?

Mr. Brown: Eddie you can come back to me for a second, the only reason I am a no is because...

Mr. Kuhlman: Oh I didn't know you had more to say.

Mr. Brown: I had a long pause.

Mr. Wright: Anybody can offer an amendment if you want...

Mr. Hoewing: Yeah you can do that.

Mr. Brown: I am not prepared to go there either I need to have, the reason I am a no is because I would like to continue to explore it before we just put something down in stone, I know we are not under a mandate to do anything right this second, I would rather do the right thing versus doing something right this second so I'm not there yet on this because I share the same concerns you did with the RDT versus having it in the RDT versus having it anywhere at all for one and secondly this does seem to be just kind of a anti-use measure period so I would rather get some more exploration on this a little bit and frankly I would rather just see if there is more to Mr. Speelman's proposal than their drawing when it comes down to it and canceling this out tonight or voting in favor of this would kill that so.

Mr. Hoewing: So are you against it in the RDT too is that what you are saying?

Mr. Brown: No I am not necessarily against it in the RDT although I do think that its, I have some concerns about specifically our RDT and then the restrictions or lack of restrictions that there are based on putting it in the RDT right now I have some concerns about that. So I mean I have to admit my thought process on this is developing or evolving so I would like to spend a little more time on it.

Mr. Kuhlman: Are you done?

Mr. Brown: Yes.

Mr. Wright: Sounds like you are going to send it back to the Committee.

Mr. Hoewing: Sounds like it.

Mr. Kuhlman: Lori?

Ms. Gruber: I agree I'm not quite convinced that it should just be in the RDT.

Mr. Kuhlman: Link?

Mr. Hoewing: The question I still have and I proposed this to the Planning Commission and they nixed it when they sent this back up is the concerns I think they are expressing and I want to see if this is where the Commissioners are, are three, aesthetics, safety, and utility. Utility is the issue you raised Jim about does it really pay off, they raised that in the Planning Commission...

Mr. Brown: You should say noise too if you are adding that.

Mr. Hoewing: Ok well safety would be noise and is it dangerous. On aesthetics the two issues were one it doesn't fit and John is trying to address that with an old windmill that looks like old windmills that conceivably were in Town I suspect they were, and the other aesthetic issue is are other people going to start applying so you have 10 of these windmills all of a sudden so it looks like a wind farm then I think those are the two issues is that right?

Mr. Kuhlman: Basically.

Mr. Hoewing: Ok safety I think we have addressed I mean there are a lot of Ordinances around that have done that I think we've addressed that.

Mr. Brown: Is that addressed specifically, do we have that addressed specifically?

Mr. Hoewing: Yeah there are some requirements and also in terms of the construction has to be Montgomery County approved for the concrete base and all that. I think they have at least the ones we saw, the other permits, the other towns that have done this have

done pretty much what we have in here. I don't think we can get to the utility issue because I think John it will never pay for this but that is his dollar so we will get away from that because I really don't think it will pay for itself, but still on aesthetics an idea we talked about this before but I think this may be a way to frame this, if you had a year process and I know there is an issue here because what the standard is for saying at the end of the year you got to take it down John whether you like it or not, I don't know if he would agree with that or not but if he wouldn't agree with that than we got a problem but I think we should have to justify it, we should have to say something about the public safety or the character of the Town we think is unavoidably damaged because somebody complained to us or something like that, I think we got a standard but if we had a year and in that process we had a public hearing like say 2 months and we mandate this process so it has that 2 months before the end of the year we have public hearings getting public input what do you think, is it damaging to the Town's character, get real public input and we require anybody else who wants to come up with the same kind of idea, put their own windmill up, during that 2 month period before the end of this year to come forward and say yes I want to do that, at least we can smoke out whether this is going to be something that is going to be a major problem or not and decide ok we are going to ban it because there are 10 other people that applied and we are not going to do this, just an idea, so if we are going to think about it anyway that is an idea.

Mr. Brown: That is fine I agree.

Mr. Klobukowski: What you are saying is you are leading everyone or at least me to believe from what you are saying is that at that time everyone who desires to have a windmill after they see Johns will come forward.

Mr. Hoewing: Right.

Mr. Klobukowski: There is no guarantee this is not being written though for a year.

Mr. Hoewing: You are right it is not a guarantee.

Mr. Klobukowski: So someone after the year period may come forward and then decide to do it, businesses change, ownership changes, their thought processes change so that is my hang up.

Mr. Hoewing: It is not a total, you are right it doesn't solve the whole problem.

Mr. Klobukowski: I agree with you but I just can't conceive of someone erecting something and then taking it down particularly after the whole purpose of it is to derive some sort of economical benefit from it and if you are deriving an economical benefit I don't know why you would just all of a sudden say oh fine I am going to take it down.

Mr. Hoewing: Let me try to write something up and see what it looks like and if John (inaudible) than I guess we know what the answer is don't we.

Mr. Kuhlman: For tonight's purpose then I intend to vote no for a lot of different reasons than have been said here tonight but that will suffice so we have 5 no's for that right now as submitted so we need another work session with the Commissioners to go over this wind energy one, we need Planning Commission to come up with the stuff for the solar and the only one that nobody has a problem with is the geothermal and the solar for off-site use production is a no, and we have gained some little bit of ground and regrets. All right so will you get the Planning Commission on track with those other things and then we will set up a work session maybe January 4 if the agenda is not too tight to look at this other. Anything else on Ordinance 178 from the Commissioners?

Mr. Klobukowski: Yeah I would like Wade to verify that the County when they look at a permit like this do verify that the system is set up for not back feeding to a dead power line, if you could just a point of information.

Mr. Kuhlman: John not to be disrespectful to you but if you can wait a few minutes you can rebut and say anything you want under the open session citizen forum. It is not on the, or I'll address this under Town Manager Report.

Committee Reports

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

Mr. Hoewing: We had well Mr. Coakley is here you want to go ahead?

Mr. Coakley: George Coakley Chairman of the Planning Commission. I guess a major item that we had at our last meeting we had an informal discussion of I guess like a straw vote side setback for Brightwell Crossing subdivision. There was a request on a number of lots that the current setback of 10 feet for the sidelines could have encroachment of up to 2.5 feet on either side for bay windows, well window well bumpouts and those sorts of things, and the Planning Commission in the straw vote said no and then we did go over the alternative energy recommendations again and they remained the same when they were sent forward to the Commissioners again. In relation to that I know with the solar in RDT we didn't go into and you may want to I mean I am not sure how businesses are currently taxed in town but I would imagine that business proprietors have to pay a tax either on inventory or what they generate or part of the establishment even if they happen to be renting the space and I would assume that would hold true if someone had a commercial enterprise on RDT their land property tax may not be the same but there may be some tax on any income that they might be generating.

Mr. Kuhlman: It's assessed as agricultural versus commercial and there is a big difference.

Mr. Coakley: That wasn't my point.

Mr. Kuhlman: Oh ok.

Mr. Coakley: The land has a tax on it but I believe businesses also have some kind of tax that they have to pay so if someone were to open a solar farm on RDT they may only be paying \$500.00 a year property tax but if they were generating large income than part of that would be coming back to the Town also I believe.

Mr. Kuhlman: Miniscule.

Mr. Klobukowski: Unless the State passed some sort of law that allowed municipalities to tax this sort of enterprise like I tried to --- with the hotel tax, that if you have a hotel in your jurisdiction the municipality could put a room tax on there on to the State and County tax if they desire, but that has to be approved by the State.

Mr. Kuhlman: Ok thank you Sir. Parks Board.

Mr. Brown: Parks Board meets this Wednesday.

Mr. Kuhlman: CEDC.

Ms. Gruber: Ok CEDC met November 19 I guess George and Link both with the Master Plan Input George had reported on it that the focus group meeting specific areas the group would like to see addressed included diverse housing, making main street prettier, encouraging small businesses to come to Town and having air sampling done in Town and can you go further on that, I believe the air sampling was compared to the water quality samples.

Mr. Hoewing: I don't remember that particular issue, I do remember they had a lot of discussion about making the Town and it wasn't the Town per se it was actually the CBD they had interesting comments about how run down the CBD looks in their view and it could be a lot more like the focus around here in Whalen Commons has really been good its made the Town look a lot nicer so they thought we had to be focusing a lot on the CBD from a planning standpoint. It was a good comment, I don't remember the air quality frankly.

Ms. Gruber: George do you want to on the air quality.

Mr. Coakley: A number of people raised the issue that the Town is looking at potential cancer risks with the water and radon in the water and stuff and everything but with the incinerator and power plant not too far from here that the Town should invest in some air sampling. (Inaudible) and possibly set some baseline data so that if anything deteriorates in the future we would know that it was going down and not staying the same.

Mr. Klobukowski: Well there is a solid waste advisory committee or board SWAC I don't know if it is still in existence or not but they have access to all the air sampling at the Mirant Plant and the Incinerator and I think under that guise you could probably have the County do some air sampling if we wanted to do that, I think we could probably get them to do it since as I recall the geography of this area is we are like on the rim of a soup bowl with those particular stacks equal to the rim because they are in a depression so that might be an interesting thing to ask the County to do because I know they did a lot of it when they were putting the incinerator in to appease the people who lived adjacent to it in Dickerson and Barnesville and Beallsville.

Mr. Hoewing: I would like to mention that I thought the focus group was a very useful mechanism we got some really good input, good discussion and I think Wade sent the minutes around, we actually did record what they said so it is worth taking a look at.

Ms. Gruber: Also the CEDC has two new activities that they are planning on entering into their budget, one is a Farmer's Market and the Brew Festival. I believe that the Microbrew Festival, well I know they have come down in focus on that from a fundraiser to a Town awareness and they are dealing with location, their first meeting was held November 4, they have a meeting I believe December 10 I think next week and they are having a High Road Event Management Company, the High Road Event Management Company coming in to give a presentation on how to make this all that they want to, to make this the big event that they want to make it. So but that was kind of a heads up on the budget for the CEDC.

Mr. Hoewing: So it is not a Chili Cook-off anymore?

Ms. Gruber: Correct.

Mr. Hoewing: Oh ok. It might be part of it but not the focus.

Mr. Brown: Lori just one thing in the CEDC meetings if it would be possible from the feedback that I received from a lot of residents on the from our Friday night gig that we just had, which was obviously hugely successful I don't think it would be out of line if they were thinking about trying to develop signature events that would take place a total of 4 times a year, Poolesville Day, our Friday night deal, and then 2 other signature events, we don't want to wear it out but at the same time by the amount of people that participated in the bang for the buck I think it was a pretty substantial get together and maybe we could really develop a calendar that would envelope 4 annual events that the Town was actively promoting and participating in.

Mr. Klobukowski: In that same vein I don't think Poolesville Day and I know this Lighting was not in the Washington Post and it didn't appear in the Gazette so its like if we want to encourage people to come out here and then there is also the Maryland Planning Calendar which they put out events throughout the State throughout the year and you have to get your input in I think it is probably already passed due for 2010 but they put out a calendar for the entire year and you can look up and I know for the longest time the picnic up in Barnesville has been on there, the summer picnic has been on that calendar forever and also they have a website for that and you can go to that and you can access the county, the date you put in and it will tell you what is going on throughout the county, so I think if we are going to focus on increasing attendance it would behoove us to let other people in the county know that we are having little shindigs.

Mr. Brown: Well my purpose is attendance is always great especially for the vendors but I am just really in addition to what Jerry said its more about the residents and having a good time in this Town, I can't tell you how many family members came up to me, a lot of them wrote letters today, so I am really just, attendance I think is great for when we have vendors that help make the events great, but I am just more want to see it for our people and bang for the buck for what our taxpayers pay for, these are out front events that everybody points back to and says fantastic time.

Mr. Hoewing: In a way though they have 2 other signature events already, one is the music series in the summer, which is very successful this year and the other is the movie series, those are other signature events that go well. I am not saying they shouldn't do more but those are good events too.

Mr. Brown: Yeah I am with you they should not stop. And the other thing too about the air sampling initiative, now is that something that we've taken any kind of a formal direction on or is that a recommendation?

Mr. Hoewing: No it was in the focus group it was mentioned by some of the participants in the focus group we didn't, it wasn't a Planning Commission initiative, they mentioned that to us.

Mr. Brown: I just think that is an interesting idea from a County request perspective versus us and I don't think it is something we want to get involved with but I think it is part of our arsenal of ensuring the safety of our residents through the resources that the County can offer. I would like to see us try to at least request it or ask for it.

Mr. Klobukowski: With respect to these calendars this isn't for vendors this is for people to come like Poolesville Day who are coming from other areas to come and just see the Town and it helps showcase the Town so it benefits the vendors that are there but also it benefits the Town by having people come in and see such a great place that we live in and the other question I have though is there is a lot of emails on the Town Hall Ornament and who is going to get the proceeds and I understand that this is being sponsored by the CEDC but the Commissioners...

Ms. Gruber: No it is not. No it is Mary Beth that is doing it for the High School PTA, I believe it is a PTA fundraiser period the end.

Mr. Brown: It is.

Mr. Klobukowski: But again there was some issue with respect to who has the right to authorize the use of Town Hall I thought from reading one of the things. If somebody made a statement that is something that really should be out in public.

Ms. Gruber: That was cleared I believe it was Steve who raised the issue and stated that it was I don't even remember what he said.

Mr. Klobukowski: He said it was all right but Eddie said we never relinquished the right to that Town Hall image.

Mr. Hoewing: Yeah so other people can't use it.

Ms. Gruber: That is why they were able to use it.

Mr. Hoewing: They can use it as long as it is non-profit.

Ms. Gruber: Right and he was saying \$2.00 per ornament for use of the Town Hall image, which was not...

Mr. Klobukowski: But we need to have a policy on it so we understand so people if they want to do this Town Hall which I have no problem with, you know some organization again as to a clear definition as to who the proceeds are going to, what's it for, etc., etc., again it is just something that should be open.

Mr. Kuhlman: Anything else on CEDC?

Ms. Gruber: No.

Mr. Kuhlman: Before we jump into Town Manager's Report unfortunately I didn't get this in my mailbox until this afternoon or 5 minutes before the meeting started I'm aware of it, it was in your alls boxes, somebody has made an application in Montgomery County to subdivide a parcel of land on Jonesville Court into 5 single family lots, which is allowed, its R200 zoning but they also want public sewer from us and WSSC owns what is it Wade 20 or 25,000.

Mr. Yost: It is 20,000.

Mr. Kuhlman: 20,000 gallons of capacity at our treatment plant, the agreement and I need to get it back out and reread it but I think the agreement was it was for failing systems and things of that nature. My suggestion is to read over this real quick it was in your boxes.

Ms. Gruber: Is this the Habitat for Humanity.

Mr. Kuhlman: Yes but I would strongly suggest I mean there is really nothing I don't think we can do to stop WSSC from allowing these 5 lots to be hooked up, but I think at the very least we need to send them a letter reminding them you only own 20,000 gallons, x amount of gallons is used, this is what is left and we per the agreement were under the understanding that this was for failing systems and so forth and so on just to be aware of what you are doing.

Mr. Klobukowski: I recommend you state the latter first and the former second if that is the real purpose of us supplying them capacity of wastewater treatment plant was because of their failing sewer systems not for new development regardless as to whether it is 20,000 or 5,000 gallon capacity because that is the real crux of the whole situation why we ponied up not to say that we didn't derive some financial benefit from it either.

Mr. Kuhlman: We don't get a benefit out of it at all.

Mr. Yost: Well when we do upgrades like the last (inaudible) they did pay \$70,000.00 towards it.

Mr. Kuhlman: No I meant we don't get any benefit out of a monthly.

Mr. Yost: A billing cycle that is it.

Mr. Kuhlman: A little bit of a sewer payment. All right so is that a good feeling with all the Commissioners?

Mr. Klobukowski: Would it be relevant to have Alan look at the...

Mr. Kuhlman: Wade if you need to bring Alan in go ahead.

Mr. Yost: We did pull the agreement out, the agreement like you said is very basic but we went through the minutes and some of the old letters when they met with WSSC and the intent was exactly what you said, it wasn't for development it was to get the existing failing septic systems off because they were contaminating the wells out there.

Mr. Kuhlman: Well get the agreement out and review it again and lets send them a letter just to remind them.

Town Manager's Report

Mr. Kuhlman: All right Town Manager's Report.

Mr. Yost: Today we did conclude the 60 day pump down test on the 2 new wells, there were no catastrophic well impacts on the private wells we did monitoring. Kathy Mihm will be putting a report together and forwarding it to the State and we will share that with you once we get all the information collected. Other than that, that is all I have right now.

Mr. Klobukowski: I have a couple questions. I have got a MML Bulletin dated the 23rd of November and we received it on Friday the 20th of November which obviously is a pretty good deal getting it 2 days before the published date but I understand what they do. In it there were a couple things one is the MML planners discussed newly adopted stormwater management regulations. Did we get any feedback on that from the County I assume since the County has our stormwater management system now they would impart to us anything that was discussed at the meeting that would impact us.

Mr. Yost: They would have yes. We had a code permitting status with them so anything did impact it really impacts the County more so than us.

Mr. Klobukowski: Ok but they haven't contacted you.

Mr. Yost: No.

Mr. Klobukowski: Ok the other thing is there is a thing here saying that the EPA is accepting applications for environmental education grant funding has anybody contacted Billie Bradshaw at the High School, because what it says is accepting grant applications a total of 3.4 million in funding environmental education projects and programs EPA is expected to award approximately 100 grants ranging from \$5000.00 to \$100,000.00 and will accept applications until the 15th of December. That is a very short time but since we do have a Global Ecology Program here something happened to ring a bell when I read it. So I will contact Billie tomorrow if we have not.

Mr. Kuhlman: Ok is that it Jerry?

Mr. Klobukowski: Yeah the other thing was is speed cameras, were we ever able to get a thing from I know in your email we discussed this...

Mr. Yost: Not yet.

Mr. Klobukowski: From the County as to what...

Mr. Kuhlman: That is why it wasn't on the agenda tonight we haven't got the Memorandum of Understanding from Leggett's office. Basically Jim Brown and I went down and testified last week on the Delegate Feldman's Bill, State Bill that would amend the speed camera law to mandate that the municipalities get a cut of the money and we met Ms. Lushae down there and chatted with her and what Leggett is willing to do is give us 1/3 of the camera revenue of the 10%, yeah 10% of our total budget.

Mr. Yost: Which is State law.

Mr. Kuhlman: If our budget was 3 million even we would be eligible to collect up to \$300,000.00 off of the speed cameras, after that it goes to the State. All right anything else?

Citizen Forum

Mr. Kuhlman: Hearing nothing Citizen Forum anybody? Mr. Speelman you have been waiting come ahead.

Mr. Speelman: Thanks again for giving me a shot you are at least not looking down and I think we can hopefully come up with some resolution that will be good for everybody. I really think the test period that would cover all of us to where we could have some real information, we can see it develop and then go from there.

Mr. Kuhlman: Well while you are sitting there, answer Mr. Hoewing's questions, what are the parameters you want established to at the end of the year, is it just the Commissioners say we don't like it take it down.

Mr. Speelman: Well first of all the new ones would not go all with that, the new design, it would be very costly, the one the aesthetic, the other one which I think is more modern, more air streamed and I think is what people would be going with you get more information as far as the aesthetics, the noise, they are the ones I think most people are looking at, but I feel confident enough that once its up the only person that has come to me that doesn't want it was the Nessul's and I know there are a lot of emails going around but nobody, you know I have a good feeling that everybody thinks it's a good idea, I think if it is a noise issue, it's a detriment I will take it down, I think there is some way we can come up to that.

Mr. Hoewing: You are saying though John with the old fashioned one design you are not as...

Mr. Speelman: I can't no, that would be too costly.

Mr. Hoewing: Just out of curiosity what does the second one cost twice as much as the other one?

Mr. Hernandez: It is about as much as (inaudible) more power.

Mr. Hoewing: It produces more power.

Mr. Hernandez: (Inaudible).

Mr. Hoewing: But it is shorter in terms of the height of the tower.

Speaker: The tower total is 47 feet.

Ms. Gruber: What about noise?

Mr. Kuhlman: Do you want to come up to the microphone please Sir? Give your name for the record.

Mr. Hernandez: My name is Carlos Hernandez, 6663 Dickerson Road, Dickerson, Maryland. I am sorry what was the question.

Ms. Gruber: Is there more noise associated with this model.

Mr. Hernandez: This model has been around since 1888 it was made by Air Motor and it has been in production since 1888. As far as I know there hasn't been any noise studies on them. They have been part of the American landscape for 121 years, I don't believe there is anybody out there that will complain about noise.

Ms. Gruber: Except for maybe his neighbors.

Mr. Hernandez: The modern turbines do have that available, any turbine you can think of simply because they are following the American Wind Energy Association guidelines to make sure and actually measure the sound that it makes because everybody assumes that

noise is detrimental but everything makes sound including cars going down the road so that is measured in decibels or a more scientific way of doing that, all turbines that are sold in the country that I know of have that available, it will tell you how many decibels and how many meters from the base of the tower.

Ms. Gruber: But you don't have information on this model.

Mr. Hernandez: No. What I can tell you though is that because of the number of blades that it has it is self limiting in how many RPM's it can actually go. So the smaller the turbine the smaller the diameter the faster it can go so you can see like small 4 foot diameter turbine can actually spin at 900 RMP's or even faster than that. As you get bigger you have more number of blades it is reduced, for example the modern has 3 blades that is a 12-foot diameter turbine the maximum RMP it reaches is 325 RMP's. The Air Motor 16 foot diameter maximum RMP's is 55 RMP's so as far as noise is concerned there is basically almost no noise from the wind going through the blades, some of the sounds it makes is because it is a metal turbine it does have some...

Mr. Speelman: The metal to metal friction noise.

Mr. Kuhlman: We had one on the farm.

Mr. Hernandez: How long has it been there the one you have?

Mr. Kuhlman: It was there quite a while.

Mr. Brown: Are you guys going to be able to come up with better pictures than that unbelievably beautiful rendering?

Mr. Hernandez: That is four miles from here.

Mr. Brown: No other manufacturer's photos or anything like that I mean that is sufficient I'm just wondering if there is anything else out there besides that.

Mr. Speelman: This is an actual picture of his farm in Dickerson.

Mr. Brown: Ok.

Mr. Speelman: The older style, which is a bigger footprint, 16-foot footprint.

Mr. Kuhlman: Alright John or Carlos whoever owns that, would you mind leaving that here for a few days or so, that picture.

Mr. Hernandez: Sure.

Mr. Kuhlman: Thank you. Mr. Pearce you had your hand up.

Mr. Pearce: Robert Pearce. A few comments on the Energy Ordinance, just from what I heard earlier when you talked about the Forest Conservation Ordinance now going down to 20,000 feet less than 1/2 an acre if you limit geothermal to horizontal closed loops and don't allow vertical or diagonal drilling everybody is going to have to now comply too with the Forest Conservation Act and start doing forest restoration work on their yard to even do that so I think geothermal you might as well just can it because its just going to get so prohibitively expensive if you limit it only to the horizontal construction method. I think Mr. Klobukowski point on both solar and wind with regards to feeding back into a system is a valid point that you ought to at least put in your ordinance for all the do it yourselves out there so that they understand that there is a potential problem with electrocuting workers when you get feedback. With regards to generating your list on solar panels it sounded like the list was primarily for the commercial and the historic zoning, I suggest the list should apply to all in Town. If you are going to allow some adjustment of angle for flat roofs you ought to also allow a reasonable amount adjustment for angle in residential because everybody's roof is not pitched to maximize and it is usually not going to be a great amount of vertical shifting but to prohibit it totally is

defeating the process of trying to get solar energy. So if you are making up a list check it twice and apply it to everybody and allow the ability for somebody to suggest that the bottom be tilted or something keeping it below the roofline etc., in residential as well. With regard to solar farms in RDT I don't think it's inconsistent personally with farmland I have seen both in this country and in Germany solar farms. Solar farms and I am involved with putting one in in Charles County right now, there is no foundation even for the posts they pound the posts into the ground, there is grass maintained around and under these things, there is very little physical disturbance, it's a way for a farmer to realize a crop in a market that is collapsing economically from Ag production, leaves it in green space and it seems to me that we don't really need to worry about changing the zoning, it simply needs to be an adjustment of the tax assessment, the assessed value and I don't know what the State uses but I think there is a requirement that you actually do farming when you are zoned for farming to get that and there is a big difference I agree with you fully because I have been paying on 3.5 acres at half acre zoning and all the new developments coming in haven't been paying that for decades. But I'd look at simply the ability to change the assessed value of the land if one of these comes on but I think it is a good way to keep green space and still allow a farmer to make a profit on their land. For Mr. Klobukowski I don't know if you are aware Billie Bradshaw is no longer in charge of Global. She is the overall science but Joyce and I can't remember her last name I think is...

Mr. Klobukowski: Bailey.

Mr. Pearce: One thing that concerned me in your discussion on the windmills it seems like there is a concept that the more people in Town that would want it, the more the government is going to be opposed to it, which doesn't make sense because I heard one person putting it up John but my God what if 10 people wanted it, well I don't know that that is the right way for government to work, the more people that want something government ought to try and empower them so I just ask you to reconsider that whole idea. And then the final thing I would like to talk about has nothing specifically to do with the alternative energy, it's the form of government that we have and the procedures. Back 6 months ago or so I among 200 or 300 other people actually put our name down on paper and our addresses on a petition with regards to alternative energy, it could have been for anything and I believe at the time that the Chairman expressed that well that petition doesn't really hold much sway with us it is the people that come to the meetings that are really what we are going to give concern to but I'm hearing a lot about people getting emails and I think that if emails are going to weigh into the decision process than copies of the emails ought to be put in the official record that are received. I have 3 email addresses I could send out 3 votes for something by email and you may never know that they are all coming from one person. So I would just say that if we are going to be looking at alternative means and I am not mixing alternative means of getting input from the public but we ought to accept them all and anybody that is willing to put their name and address down that ought to be given pretty good weight as far as the views of what the public has on a particular issue not necessarily just alternative energy but on any issue. Thank you.

Adjournment

Mr. Kuhlman: Thank you anybody else? All right seeing no hands I would like to wish everybody in the Town a very Merry Christmas and a Happy New Year for the Commissioners and entertain a motion to adjourn to work session.

Mr. Brown: So moved.

Mr. Hoewing: Second.

Mr. Kuhlman: All right all in favor?

All: Aye.

Mr. Kuhlman: We are adjourned to a work session.