

**COMMISSIONERS OF POOLESVILLE
MEETING OF SEPTEMBER 20, 2010**

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

Call to Order

Mr. Kuhlman: Good evening ladies and gentlemen we will call the Commissioners Meeting of September 20, 2010 to order. Let the record reflect that all Commissioners are present as well as Town Manager and Town Attorney. First order of business will be the Pledge of Allegiance if you would rise, Jerry.

Pledge of Allegiance

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

Announcements

Mr. Kuhlman: All right thank you very much. Under announcements I would like to remind everybody if they don't haven't heard, Poolesville Day will happen this Saturday and the Committee has worked long and hard to put together a wonderful event again. Any other announcements?

Approval of Minutes

Mr. Kuhlman: Hearing none we will move on to the approval of the minutes. We have 2 sets of minutes, September 7th was a normally scheduled meeting and then we had a special meeting on the 13th that dealt with adding a question to the ballot this year about changing the name of the Town from for those of you that aren't aware of it, the Town is actually the Commissioners of Poolesville is the name of the Town, to change it it has to go to a ballot question of the general voters so we are going to add a question on the ballot this year if the residents support changing the name of the Town to the Town of Poolesville instead of the Commissioners of Poolesville. Is there a motion for the minutes?

Mr. Klobukowski: So moved.

Mr. Kuhlman: Is there a second.

Mr. Brown: Second.

Mr. Kuhlman: All in favor?

All: Aye.

Mr. Kuhlman: Both sets of minutes pass unanimously.

Open Forum & Citizen's Comments on Agenda Items

Mr. Kuhlman: All right citizens' comments on, anybody have anything just plain open that isn't on the agenda tonight. All right any comments on we are going to receive a report from Karen Micheals of the CEDC on the Springfest project, any comments there? We are going to introduce a Resolution tonight and it won't be acted on it will be introduced at the request of a citizen at the last meeting to establish an Advisory Committee for the entrance signs and way finding signs, to establish a committee to study that and make some recommendations, any

comments there? All right we look at Ordinance 181 that would amend Section 9(B)(3)(9) of the Poolesville Zoning Code to exempt certain commercial signs on the weekends, this is all about we discussed at the last meeting allowing the businesses to put up a sandwich board type sign on the weekend to advertise any specials to try to draw some business for them, any comments there? All right looking at Ordinance No. 182, which would add Section 2.C of the Poolesville Zoning Code to address matters relating to conflicts, conflicts of what Wade?

Mr. Yost: Between zoning ordinances and the way the covenants are...

Mr. Kuhlman: Oh yes ok any comments there?

Dr. McInnes: Could you elaborate?

Mr. Kuhlman: The Ordinance if we will introduce tonight and set a public hearing date for it later in October you can give your testimony at that hearing, basically if I understand it correctly the Ordinance will say that the Town will not be taking private covenants into any consideration when making any decisions in the Town, anybody wanting to make any comments on that issue right now. Seeing no hands last agenda item will be Ordinance No. 183 and it will be a selection of two, which will be an amendment to Section 3.D to the Poolesville Zoning Code to address matters relating to Special Exceptions on shared driveways. Is there any comments there at this time? All right seeing no hands we will go to old business, which will be Karen Micheals and Cathy Bupp for the CEDC Spring Fest project report.

Old Business

Ms. Micheals: Hello I am Karen Micheals I reside at 19723 Selby Avenue.

Ms. Bupp: And I am Cathy Bupp Town Staff.

Ms. Micheals: Hello I am back again. I was here the last time in June to present the Spring Fest project as put forward by the CEDC and I presented that project plan of which a copy is provided to you tonight, it is the exact same copy as the one I presented in May. And at that time you all had questions about how other cities procured and distributed and managed the alcohol that was being served at their community events, such as Spring Fest, and so what I am here ready to do tonight is talk to you a little bit about what Germantown, the Kentland's, and Rockville are doing and at the end of the meeting tonight I would like you to vote for your approval to move forward with the project. In addition to the project plan I gave you copies of all of the flyers from the other towns and just briefly wanted to talk to you about them because we did reach out to them and we talked to their planning people, for example in Germantown they have an Oktoberfest, they are celebrating their 28th year having this event, it has been very successful obviously, your question was where do they get their beer from, and the answer is they get it from Premium Distributors which gets it from the County, which is what we are proposing in our plan. You wanted to know how it is served and it is served by local non-profit volunteers, every year different non-profits can take turns running the beer garden so they can make a profit off that. And they told me that they have never, ever had a problem with any sort of drunken behavior that was another concern that you had. Moving on to the Kentland's they are having their Oktoberfest as well in early October, they are having their 19th year, obviously that has been successful. They sell beer only, they also get it from the County and their paid Gaithersburg Staff is the one actually pouring the beer in their beer tent. They did

have police that they hired to help manage the crowd but they had to cut back over the years due to budget and come to find out they have never had any problems ever with drunkenness or any issues so cutting back the police was no big deal. And oh by the way they have alcohol at every single event that they have, holiday parties, 4th of July parties...

Mr. Klobukowski: Where is this again?

Ms. Micheals: The Kentlands. And then lastly we talked to Rockville since they are in their 3rd year of their Wine Fest, they have wine only and they have wineries come and serve it and they too have never, ever had a problem with over consumption.

Mr. Hoewing: So the wineries staff people do the serving then?

Ms. Micheals: Yes. So pretty much every town north, south, east and west of Poolesville serves alcohol at various functions in their communities so I am asking you to also approve alcohol for our Spring Fest.

Mr. Kuhlman: Anything else?

Ms. Micheals: That is it.

Mr. Kuhlman: All right any questions? All righty then thank you.

Mr. Brown: Do we ask you to call for a vote on this?

Mr. Kuhlman: I hear nobody offering any discussion or anything so...

Mr. Brown: You just went from discussion to see you later. Is it within your purview to ask for that Sir or is it up to us to do that?

Mr. Kuhlman: It's whatever Jim.

Mr. Brown: Ok well I would like to make a motion that we approve the proposal for Spring Fest as proposed.

Ms. Gruber: I would like to second that motion?

Mr. Kuhlman: All right is there any discussion?

Mr. Hoewing: So just to be clear they already have the budget all we are doing is saying they can go forward with the project, they don't need any money for this.

Mr. Brown: That is correct.

Mr. Kuhlman: I don't know, that isn't what this says. Doesn't say they are asking for money but I don't see where the money, the money that they have approved covers the tent, the porta-potties, marketing but they don't have any money to go towards the other stuff, the alcohol, what happens if you don't sell enough alcohol to cover the alcohol bill.

Ms. Micheals: Well we will be getting sponsors so we will be running the budget that way.

Mr. Klobukowski: You say the wineries are not going to be the ones pouring. You said volunteers will be doing it.

Ms. Micheals: Yes.

Mr. Klobukowski: Is there a way we could get the wineries to do that, that way they would assume and also possibly the cost of a glass if you had 2 or 3 wineries you could have 2 or 3 names on an individual glass which would be sold when they entered the tent, like some of these t-shirts you see well Poolesville Day t-shirts or whatever that have all these sponsors of the 5K race have their names on the back of the shirts.

Ms. Micheals: We can certainly look at that putting sponsors on the glasses. As far as the wineries go we plan on inviting wineries, originally it was a beer tasting event-inviting wineries as a side thing just in case people don't want to taste beer.

Mr. Klobukowski: The only 2 breweries I know of, 3 breweries in this area...

Ms. Micheals: the County provides the beer so there is like 80 different beers that you can get through the County, it doesn't have anything to do with if they are local or not.

Mr. Brown: Right through Premium Distributing or whatever their name is.

Ms. Bupp: And we were going to pick beers that the local beer stores and Selby's sell and say if you like it go buy it across the street.

Mr. Kuhlman: But if you are forced to buy it through the County why would you invite wineries if they can't see their product?

Ms. Micheals: As part of the Class C license you can have what is called Petite Wineries to participate.

Mr. Kuhlman: So they can come here and sell their product.

Ms. Micheals: I believe so.

Mr. Kuhlman: Is there any thought to incorporating some way for the three businesses in Town that do sell alcohol to make some money that day, how is that, I mean you are buying the beer through the County, you are inviting wineries that can sell theirs, but how are the three existing alcohol outlets in town going to be able to make any money.

Ms. Micheals: Because it is a beer tasting so people are going to taste it and then they are going to decide they want to buy it and they will go across the street and buy it.

Mr. Klobukowski: They aren't selling 6 packs at the door like a winery does where you like this you buy a couple bottles of that, a couple bottles of this and out the door you go with it.

Mr. Brown: Karen is there any way in which you see that this would end up costing the Town more money than what you already have allocated towards it? I mean if you are going to line up sponsors to make sure that you are covered in terms of any overage or if you, I mean you are going to buy a set amount of alcohol through Premium Distributing and that is going to be X amount of cost that is budgeted in...

Ms. Micheals: Right and whatever doesn't get sold can be returned so we don't have any risk there.

Mr. Brown: Ok got you.

Mr. Klobukowski: I know like when my father ran his tavern every time somebody came in and was having a sale or they would give him glasses marked like Genesis made one called Fife and Drum he got glasses with that, Seagram's Dry Gin he got a pitcher, he got signs, he got swizzle sticks, he got all this stuff that were given to him by the liquor dealer or beer distributor depending on what it was, so in a way I would think that this Premium Distributors could come up with something as part of the deal.

Mr. Kuhlman: If its your deal you are talking about where a bar would buy directly from the wholesaler, Montgomery County doesn't operate that way.

Mr. Klobukowski: I know that but still...

Mr. Brown: She could always ask.

Ms. Gruber: I think she is planning as well as she can to get as much as she can for the fullest dollar but tonight she is just asking for the permission to go ahead with it.

Mr. Klobukowski: Well I think Eddie's concern is his question and I have a concern too is the money aspect, are we going to be hung, sponsors are going to do it, the thing is I am looking at a way of lowering the cost. And those are one of the things I know that you can get glasses already made that they give, my father he didn't even have to buy it, they gave them to him and if he wanted more they would have given him more. So I am not trying to be argumentative I just (inaudible) and the other question is what does this do with respect to the Town sponsors this event and allows alcohol in the park, right now the park regulations say no alcohol in the park, what does that do to us with respect that turning around does this open the Pandora's Box for other people who want to have weddings in the park, showers in the park, family reunions, celebrations or whatever I mean it was like I got calls from people over in Wesmond when there was going to be an event over at Bill's Lawnmower and that they were going to have alcohol and these people were worried about alcohol and rowdiness and all this other stuff so again what are we doing and I guess I would like an opinion from our Town Attorney.

Mr. Gullo: Well I would think the distinguishing factor if you want to look for distinguishing factors is that this is a Town sponsored event. I mean regardless of how it shakes out of who is pouring the actual alcohol at the end you are sponsoring the event, you are funding the event to some extent and it is Town sponsored and as most rules the Town is exempt from its own rules, its own zoning, its own stuff so I would say that that would be the distinction you would want to cite if you have people saying well hey I want to have booze in the park too, its like no its not Town sponsored and I guess this measure of safety that you are going to have is the fact that since it is Town sponsored and the Town has the risk and the liability that you are going to make sure it is done properly whereas when you have anybody doing it, it might not be that way which is why you'd want to curtail that anyway, does that make sense.

Mr. Klobukowski: Ok. Key word done properly.

Mr. Kuhlman: Well I am not in support of this at all from the get go and I can't support it still. I think it is the wrong thing to do that is our premiere park, I think it I just don't like the sound of it, I don't like the precedent it sets and I am sorry. Any other comments?

Mr. Hoewing: Can you explain that again Eddie because if they are only getting a 5 ounce glass of beer what is the precedent you are setting? They are not drinking, they are not partying, they are tasting. If it is an officially sponsored Town event and that is the only time this kind of thing can be done is when the Town says you can do it what precedent are we setting?

Mr. Kuhlman: I just have a problem with it Link I think as Jerry said a minute ago our park rules say no alcohol in the parks, that is perceived as our premiere park, it is supposedly a family oriented town, I just don't go with having alcohol in the park and I think all fairness to our Attorney, you can say whatever you want but you allow this I think you have already given some ground to any group that wants to have something in the future in a park to allow alcohol. I just think it is the wrong thing to do myself. Number 1, not number 1 but I hear Karen's comment about if

they taste something they like they can go to these other 3 venues to buy it, but I don't understand why if we are hell bent to do this why didn't we get those 3 venues in here to be the dispensers and make money selling it.

Mr. Klobukowski: Because that is not the way the County runs.

Mr. Brown: You can't do it.

Mr. Hoewing: I don't think you can do that. The license only allows them to sell it in their establishment.

Mr. Kuhlman: Well if the CEDC can get a 1 day permit to buy from the County and dispense it I don't see why they can't, they buy it from the County, so they should be able to get a 1 day permit to dispense it too would be my thought.

Ms. Micheals: I can address that point. I talked to the people down at Liquor Control at Montgomery County and if a business has an "on premise beer/wine/liquor license" then they can ask for a catering extension, but they also have to have food as well. So she looked it up and only Cugini's, Bassett's, and House of Poolesville would even qualify for this, grocery stores do not because theirs is off premise so that is the only way to do it.

Mr. Kuhlman: Well as sold as you are I am not sold.

Mr. Hoewing: I didn't say I am sold, I am asking a question. You said you were opposed I wanted to find out why. I don't buy the precedent because the Town can certainly say this is a sponsored event nobody else can do it unless it is sponsored, we can certainly do that, I don't see a problem with that. The question is, is it a useful function for the community, does it serve a function in terms of providing community activities, creating the kind of atmosphere we have been doing through the movies, through the I know people don't like the Farmers' Market either but I actually do think it has actually stimulated a lot of good community activity, people really get a good feeling about it, and there are some businesses that never would have been exposed except through the Farmers' Market.

Mr. Kuhlman: I have supported everything in the park before just when you drag alcohol into it, I have a problem with it.

Mr. Hoewing: So your view is that this couldn't really work just as a BBQ function without alcohol, just asking the question, I am not saying it is wrong or right Karen.

Ms. Micheals: I think our view is that we are responding to the Town survey and we are just trying to meet the needs and the requests of the Towns people. So its entertainment and food and the beer tasting, it is not just like throw up a tent and we are going to drink beer all day.

Mr. Kuhlman: I mean I was at a similar function here a few weeks ago and Karen was at it also, it was a campaign event but there was a lady there who was supposed to be, I mean it was very small glasses but I started talking to her and it was kind of evident to me she had had a few too many to drink, now granted they were adults, you ask Jerome there was nobody sitting there saying you can't have it, but I just have a problem with putting the first foot in the door allowing alcohol in our parks.

Ms. Gruber: I believe that our residents have asked for it, the Kentlands have had it successfully for 19 years without any issues, Germantown has had it for 26 is that what you said, 26 years, 28 years and I have attended that one, I looked forward to that one each and every year, and I went and I drank and I did not get drunk and I was a responsible adult drinking a legal beverage.

Mr. Hoewing: I mean like I said Eddie we can survive without this certainly, a lot of the things that the CEDC has proposed we could have survived without, but almost every one of them they have done has been a quality project and has been helpful in terms of creating more community --- or helping with the local economy one of the two which is what we have been trying to promote with the CEDC and to some extent what you are also trying to do is to give people who are professionals and have some expertise as long as we have reviewed it and understand the risks to try something.

Mr. Klobukowski: And all the servers have to be 21 right, will there be someone supervising the servers?

Ms. Micheals: Well the servers are all going to go to a training glass sponsored by the County to learn how to do it properly.

Mr. Klobukowski: Is somebody going to be supervising the servers?

Ms. Micheals: Yes someone will supervise the servers.

Mr. Klobukowski: All right the reason I ask is I know I can relay a story to you later on about a friend of mine who ran a bar, but if that is the case I would be willing to try it just once to see how well it is received, and if you know what no one shows up then we'll know the answer and if people show up and we do have a problem well that is it for the rest of the time. Its like sometimes you have to try.

Mr. Kuhlman: All right anything further?

Mr. Hoewing: No.

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

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

Mr. Kuhlman: Opposed? Aye. Motion carries 4 to 1.

Ms. Micheals: Thank you.

Mr. Klobukowski: Thank you Karen appreciate it.

Ms. Gruber: Thank you for all the work.

Mr. Kuhlman: Have a nice night.

New Business

Mr. Kuhlman: All right Resolution 006-10. We had a presentation by Mr. Kettler with an idea and a suggestion of a committee ad hoc committee being put together by the Town to make study and recommendation to the Commissioners on signage and way finding signage within the Town and the recommendation was up to 7 members that shall consist of 1 Commissioner, 1 Planning Commission member, 1 Parks Board member, 1 Sign Review Board member, and 3 additional members made up of Poolesville residents and business owners and the terms of appointment would be until September 30, 2012. I don't think we have discussed this at the last meeting, why wouldn't we just give this to the Parks Board there schedule is pretty light right now, why wouldn't they be doing this for us?

Mr. Klobukowski: That is a good suggestion as a matter of fact.

Mr. Yost: They could.

Mr. Kuhlman: Does anybody have any thoughts on that?

Ms. Gruber: I think it is a great idea I don't see why an entire committee needs to be formed.

Mr. Brown: The only thing I would say about it, being on the Parks Board is that it is I think it is going to take and knowing because I did a fair amount of work on the

sign out front here, just one sign, that it is a sign design, sign approval, sign designation those are all, it's a little more scientific than just having a Parks Board that has other responsibilities and other expertise to try to come up with, I mean it really is going to be, I mean I always viewed it as like a subset of itself, it really is kind of a branding is different than permitting and this is like a design situation its not...

Mr. Kuhlman: Where is the design guru in this make-up of the Board that was suggested?

Mr. Brown: Well what is going to happen is I think that because it is, good question, I don't consider myself to be a guru or a...

Mr. Kuhlman: But you are on the Parks Board so you will be in it either way.

Mr. Brown: Right I am there either way I just think that its more like a I think it is going to take its own time and be its own specific function, I mean I am not going to die if it ends up being in the Parks Boards hands but I just look at it as being something that is probably adjacent for the Parks Board not necessarily a direct Parks Board function in my mind. So I won't roll over and die if it ends up being in the Parks Boards hands but I just think that it requires a specific level of expertise that is going to be developed over time and through proposals etc.

Mr. Klobukowski: I don't know I think the Parks Board is qualified since they are Parks, Recreation, and Streets, streets being the operative word, signage, I think it fits very well in their what ya call it, under their purview and judging from the refurbishment of the various parks, the bandshell and a few other things I think that they would develop the expertise.

Mr. Brown: Well it sounds like if that is the direction of the Board then there is going to be probably Wade it is going to end up in your hands because you will have to put together all the RFP not that you weren't going to anyway but I guess I just thought that as a Committee we would probably be tackling some of those items just like when we dealt with the issue on the sign out front there, so it doesn't have to be that way. We've got qualified thinkers on the Parks Board they can probably handle it.

Mr. Kuhlman: Well and as you did when you guys took care of this sign out front you involved professionals to some degree.

Mr. Brown: Yeah if you are talking about the actual company that did it that is why the questionable part on the execution of it.

Mr. Hoewing: Well Tom obviously has expertise on this, its what you do in his businesses and I think it sounds like he wants too.

Mr. Brown: So are we going to be able to enlist him as part of it if it's the Parks Board?

Mr. Hoewing: You can certainly get advise from people.

Mr. Kuhlman: He can come to the meetings and be active in it, I mean any citizen can.

Mr. Klobukowski: The thing is though you go out for a proposal you ask people for an RFP for a specific sort of signage, the companies they are going to come to you and they are going to give you a package that will be professionally done and so therefore I think basically on their own, the Parks Board on their own could discern what they like and don't like, and I think one of the things you know if you've got

several approaches or the Parks Board narrows it down to 2 or 3 then approach various citizen groups, like Kurt Behrend did when we were bidding Whalen Commons, what do we want, he went to all three PTA meetings, he went to the Odd Fellows, he went to the American Legion, he went to the churches, he made presentations and showed them what it was like and he got opinions, and basically that is how we got Whalen Commons a lot of the stuff here, what people wanted, they wanted a walkway, the arbors were nice, the memorial for the veterans to recognize those who have served, everything so I think the people if you go out with an RFP you ask them you specify what you want, you want signage, well I am not going to get into it, the gentleman our esteemed Town Manager understands.

Mr. Brown: He's nodding his head like he does.

Mr. Hoewing: If Jim is not bothered, I mean he is not (inaudible) I will go with it, I mean it would be --- to go to the Parks Board.

Mr. Brown: I can handle it.

Mr. Kuhlman: So we will scratch this Resolution.

Mr. Brown: Thanks to everybody that volunteered.

Mr. Kuhlman: While we are on this subject lets take a minute or do any of the Commissioners have any recommendations or feelings they would like to relay to Jim so that he can relay to the Parks Board as to what we might be looking for.

Mr. Klobukowski: Well I think something that is attractive. I personally, I apologize I will let someone else go for once.

Mr. Kuhlman: Lori any comment?

Ms. Gruber: I just would love to see a traditional Poolesville feeling, you know even maybe even some sort of depiction of the Town Hall...

Mr. Brown: This one or the previous one?

Ms. Gruber: I think this one, the new and maybe the wordage in the park kind of so the Town Hall off to the side and words, something creative but not flashy, not over the top.

Mr. Kuhlman: Ok.

Mr. Brown: That is going to be the big one I think is going to be my initial gut is old town hall, new town hall, old icon, where we are now, it won't be Timeless Charm I don't think.

Mr. Kuhlman: Link any comments?

Mr. Hoewing: I mean the presentation I thought did a good job whatever town that was showing some unity.

Mr. Kuhlman: Luray.

Mr. Hoewing: Because it does make people start looking for those signs, that is the only thing I can think of, I am not an expert in this area.

Mr. Kuhlman: Jerry?

Mr. Klobukowski: I like old town hall I think it should be incorporated because again I reflect the 1950 edition or whatever edition of National Geographic, I think you need a historical perspective and a lot of towns don't have it, a lot of new communities don't have it, a lot of these communities that are around here aren't old like we are and we have the historical roots back to the 1700's being established and to me that to me sort of ties you back to the past, doesn't say you --- in the past and you make all your decisions based on the past, but it shows something more

that is there than, like I like ships named after battles and famous people not just some guy out of the blue because somebody decided he was a nice guy. And the other thing is, is cost attractive cost and durability that is the big thing because like these banners cost \$120.00 a piece you say and you are going to change them out at least 4 times a year you figure summer, fall, winter, spring for the seasons and then you have the 4th of July, you have Christmas or the Holidays well Holiday Season you are talking major expense per pole, 6 times \$120.00 that adds up fast that is \$720.00 per pole and then you are talking the hangers that go on it and all that other stuff so again durability comes into it and quality and that is it.

Mr. Brown: El Presidente your opinion I'm sure you have one.

Mr. Kuhlman: I will echo what they said and I would add to take a look at the streetscape committee recommendation and I don't think we got into in that recommendation anything about like street signs, I just was over in Virginia the other day and I noticed that of course they have a lot different poles then we do but they have some very kind of ornate brackets that hold the street name signs and things like that, if we are trying to make the Town fit one theme we might want to look at the street sign place holders...

Mr. Brown: Sure that makes sense.

Mr. Kuhlman: Other than that be anxious to hear your input.

Mr. Brown: We will start developing it.

Mr. Kuhlman: All right anything else on that subject. Moving forward Resolution 007-10 we are looking to amend the Sign Ordinance that would allow businesses an opportunity to have more of an opportunity to advertise the specials to see if we can't help them promote their businesses, and Resolution 007-10 whereas Section 4-3, title "Fees for permits, services, etc." of Article 1, titled "In General" no wrong one sorry...

Mr. Yost: No 10 is the fee schedule yes.

Mr. Kuhlman: Oh that is the fee schedule.

Mr. Hoewing: The Fee Schedule, not the Sign, is that what you want to do the Sign that is 181.

Mr. Kuhlman: Oh yeah here we go, oh I jumped ahead I am sorry ok. Fee schedule 07-10 periodically sometimes not quick enough but the town does review its fee schedule for what it charges for different things, we have reviewed this and we are making recommendations to increase some of the fees and some of them are going to stay the same, this does not require a public hearing but I would feel more comfortable if we had it out on the street for a couple weeks before we adopt it so people can take a look at it and I would encourage anybody that has any interest in it to pick up a copy here at Town Hall, is it on the website too Wade?

Mr. Yost: Not yet not until we...

Mr. Kuhlman: In the next 3 or 4 days ok.

Mr. Hoewing: And the existing fee schedules they are ready too so they can compare the two or not?

Mr. Yost: I don't think that is even posted on there. This doesn't really impact residents.

Mr. Klobukowski: My recommendation would be well 1 if we are going to do this we ought to present it to the public so they can have a better understanding of what we

had, what we are proposing in increasing in each area, and what the end result would be. That way it is readily discernable by everybody when they look at it saying oh this is going up by 2%, this is going up by 10%, why is this going up by 25% or whatever, then the public can ask an educated question.

Mr. Hoewing: That is what I just asked, I think it is right.

Mr. Kuhlman: That is the most open way to do it so if anybody has a concern they can pick up both, review them and...

Mr. Klobukowski: Wait you are saying what, why don't we just put it on 1, why don't we just put it on the thing, what we are going from...

Mr. Yost: The schedule totally changed from we added several new ones, we've taken out amendments that were not in conformance or in conformance, a lot of the fee schedule itself changed just the whole structure so going from this to this doesn't really work in all the categories. Whatever you guys tell me to do I will do.

Mr. Kuhlman: Pick up a copy of each, I don't think we can put them side-by-side on the same paper and show them properly.

Mr. Klobukowski: Then we ought to color the ones that are going away.

Mr. Kuhlman: Buy Jerry a crayon and he can come in here on Friday and color.

Mr. Klobukowski: No that is not right, no, no, if you are going to do it, do it right.

Mr. Kuhlman: I don't know what you mean Jerry.

Mr. Klobukowski: Basically if you have this in an Excel spreadsheet you can go ahead and color the whole block yellow indicating it is being deleted, or something you can do it I know you can do it because I've had it.

Mr. Hoewing: So a few of these categories if I remember right Wade were either eliminated or there is a new fee that wasn't there before.

Mr. Yost: There are several that are new and especially when you start getting back to the final pages on the subdivisions where we never had a sketch plan fee before, we didn't have a final site plan fee spelled out, most of those are all new ones and we did take out portions of the zoning map amendments in conformance and nonconformance there is not a difference anymore, we added zoning text amendments and took out (inaudible) single lots compliance or full house built on a single lot.

Mr. Hoewing: We pretty much had them in a spreadsheet though at one time didn't we? I thought we did have them side by side. We changed it a little bit but we already have the guts of it so it wouldn't be that hard.

Mr. Klobukowski: Right you have got it already, I did it with the 2 different files I sent out, the one by increasing by 1% then the 10, 15, 20% so it is all, but the way you've got it here...

Mr. Yost: I will make it work however you guys want it.

Mr. Kuhlman: I'm happy with giving them a copy of each one. Because really truthfully for the Town residents there really are no changes of any substance, the people that are going to be most interested in it are developers that haven't submitted stuff and have approvals yet.

Mr. Klobukowski: I don't know it might be somebody like if they want to widen their driveway and it ends up that they have to submit a plan or something like that would that require.

Mr. Kuhlman: No.

Mr. Hoewing: No driveways are not technically you don't even have to have a driveway believe it or not.

Mr. Brown: All right so what is the end result?

Mr. Hoewing: I think that is right I don't see anything on there that is really a residential fee is it.

Mr. Yost: (Inaudible) permit except for the plumbing permit.

Mr. Klobukowski: Yeah and wasn't there one for shut off and turn on and also...

Mr. Yost: They all stayed the same also.

Mr. Klobukowski: Ok.

Mr. Hoewing: Yeah I think that is right.

Mr. Kuhlman: They stayed the same.

Mr. Hoewing: So developers will have the time to come in and take a look.

Mr. Kuhlman: So do we want to take this up at the first meeting in October or the second meeting in October?

Ms. Gruber: If it has to be out there for a while wouldn't that be the second?

Mr. Klobukowski: It has to be advertised for what?

Mr. Kuhlman: No it doesn't have to be advertised. We could adopt it tonight legally but I would rather let the people have a chance to look at it.

Mr. Klobukowski: I'd say the 2nd meeting in October.

Mr. Kuhlman: That is fine with me. Anybody ask we can take comments at the next meeting in October but we will be taking action on it at the 2nd meeting in October. All right anything else on that?

Mr. Brown: Yeah did we determine what structure we were going to provide this in, is it going to be side by side still or is it going to be one spreadsheet as has been discussed. I don't care either way I just want to make sure we have a decision.

Mr. Hoewing: I think I am fine I mean there is really not a lot the residents it is mostly businesses so...

Mr. Brown: To do a side by side.

Mr. Brown: So leave it the way it is with a side by side. I'm fine with that too.

Mr. Kuhlman: Give them both copies. All right moving on Ordinance No. 181, which is the Sign Ordinance, we will be setting this for a public hearing on what October...

Mr. Yost: 18th.

Mr. Kuhlman: 18th all right.

Mr. Hoewing: With the original language we were considering when we had the original sign revisions, that same language is that what it was?

Mr. Yost: Very similar.

Mr. Hoewing: It is well written, I thought I remembered it.

Mr. Yost: Well a lot of it yeah we just added a couple things in there, a few changes, because actually they don't have to get a permit, they can go out at 5:00 on Friday and pick up by Sunday evening and if they are not they can't be removed by the Town representative.

Mr. Kuhlman: Yeah the couple changes are that they would be able to display this from 5 pm on Friday through 9 pm on Sunday, they got to be of a certain size, commercially done or resemble some commercially produced and professionally designed, maintained in proper order, can't exceed 8 square feet and is there a motion to set Ordinance 181 for a public hearing on October the 18th?

Mr. Hoewing: So moved.

Mr. Kuhlman: Is there a second?

Mr. Brown: Second.

Mr. Kuhlman: All in favor?

All: Aye.

Mr. Kuhlman: All right Ordinance 182 be set for a public hearing also on 10/18 and on this one here an Ordinance of the Town of Poolesville, Maryland to amend the Poolesville Code, Appendix B, title "Zoning" by adding a new Section 2.C to address matters relating to conflicts between this zoning chapter and private easements, covenants and restrictions. Pursuant to Section 82.12(65) of the Charter of Poolesville and Article 66B of the Maryland Annotated Code, the Commissioners are empowered to adopt and amend zoning provisions applicable within the boundaries of the Town of Poolesville. The Commissioners of Poolesville find that it is in the best interests of the Town of Poolesville to add Section 2.C to the Poolesville Code, Appendix B to address conflicts that arise between the Town of Poolesville Zoning Code and private covenants, restrictions and agreements created by deeds or other instruments. Be it ordained by the Commissioners of the Town of Poolesville, Maryland that Section 1. A new Section 2.C shall be added to Appendix B, the Zoning Ordinance of the Town of Poolesville, as follows: This Chapter shall not be deemed to interfere with, abrogate, annul or otherwise affect in any manner whatsoever any easements, covenant, restrictions or other agreements between parties. Private covenants, restrictions, or agreements whether by deed or other instrument, which impose any requirements or standards different than those established under this Chapter, shall not be construed to modify the provisions of this Chapter or impose any enforcement obligations upon the Town. Restrictive covenants shall not be considered in assessing zoning requirements, uses, special exceptions, conditional uses, and variances. Section 2. The provisions of this Ordinance are severable, and if any provision, clause, sentence, word or part thereof is held illegal, invalid, or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words, or parts of the Ordinance or their application to the other persons or circumstances. It is hereby declared to be the legislative intent that this Ordinance would have been adopted as if such illegal, invalid unconstitutional provision, clause, sentence, section, word or part had not been included therein, and as if the person or circumstance to which the Ordinance or part thereof is inapplicable had been specifically exempted there from. Section 3. This Ordinance shall become effective immediately upon adoption. Is there any questions, discussions? Hearing none I entertain a motion to set this for a public hearing on October the 18th.

Mr. Klobukowski: I have a question for the Town Attorney. That being does this say that if we pass an Ordinance anything in the covenants or other agreements is superseded by our Ordinance, our Ordinance takes precedence over them.

Mr. Gullo: Not necessarily. What the intent of this is, is that the most restrictive one will apply however the Town is not charged with making the application and if I can explain just give me 2 minutes to do this. What we are talking about with restrictive covenants and zoning law you got to put them both, they are independent of each

other, and in recent matters that the Town has been involved in they have sometimes crossed and there has been orders of the Circuit Court to the Board of Zoning Appeals of this Town to consider them, it is well established in the Country and in Maryland that they are independent of each other. If you want to think about it for common folks thinking, a restrictive covenant is kind of like zoning, its between 2 parties that own a property and they put conditions on what can or can't be done on the property, zoning does the same thing except toward the public good, where a government entity puts conditions on all the properties, they can exist independently what you are trying to do is to say they are independent, that the existence of a restriction is not going to be considered when you deal with zoning. And some examples that we can use here are in other towns we have had properties that say you cannot use this for anything but a single family residence, lets say it is a big house that could be divided up into apartments and so that is between the property owners that own the property at some point in time they had privity of the deed, the Town may say that zoning section is good for multi-density housing, so you could have apartments under the Town but under the private restriction you can't, in that case here lets say that that applicant had to come to the town for some type of zoning permit to do this, the town would not look at the deed restrictions and say well you can have it under zoning but since you have these deed restrictions you can't, they wouldn't be considered, meaning the Town is responsible for zoning and if you are otherwise entitled to it under zoning you are entitled and the private parties that established the deed restriction they have to make sure they can enforce it against each other. Now said a different way, if one person had a deed restriction, basically 2 parties so lets pretend it is a developer puts deed restrictions on a bunch of houses in a subdivision the Town can't legally come in and enforce the deed restriction because you must have privity in the deed so you are prohibited from enforcing them anyway, so this law basically that you are passing is a positive statement to put everyone on notice that you are going to follow what the established law in the state is, that deed restrictions are not going to be considered. Now the practical side of why do you do this, you would have to through the Town, the Board of Zoning Appeals your agents have to research and guarantee the validity of a deed restriction because its going to be presented to you as here it is in my deed but you don't know if that deed is proper, so the Town now has some burden of a title search, has some burden of guaranteeing the title, which is not something the Town should be getting involved in and so this clearly states you are not dealing with it. You are not the only ones that have that, Montgomery County has not the same provision but the same type of provision in their Code, they don't consider them. So back to your question Commissioner, which one is more restrictive, lets say that my example about the multi-family technically under the zoning code you could have multi-family in this place but the more restrictive one is the deed restriction and the private parties could stop each other from having that on their own without the government being involved so the more restrictive one is the deed restriction, that would be the one that trumps but not through action of the municipality.

Mr. Hoewing: So what you are also saying is that this does not, we enacted this, it does not restrict the legal rights that people have to pursue things in court.

Mr. Gullo: Correct. They are independent and they can pursue them and in fact that is the way they would have to and it is unfortunate that this matter has not been presented properly and we talked about that and we will talk about it again, but this isn't novel, this is clearly established case law and now instead of relying on case law and judges you are going to put it in your Code so it is clear and that is like Montgomery County has that as well.

Mr. Klobukowski: Thank you very much.

Mr. Kuhlman: All right any further questions, any discussion? Do I hear a motion to set it for a public hearing for October the 18th?

Mr. Klobukowski: So moved.

Mr. Kuhlman: Is there a second?

Ms. Gruber: Second.

Mr. Kuhlman: All in favor?

All: Aye.

Mr. Kuhlman: Motion carries unanimously. All right before we move on, well we are moving on to 183 but we have to make a choice of A or B, Mr. Attorney could you explain the difference to our Board?

Mr. Gullo: Ok Ordinances beginning with 183 I will give you the background so we are all on the same page here. In our recent matters in trying to deal with some pending litigation we became aware or I became aware that you changed portions of your zoning law since the litigation has arisen and you put a requirement in there about special exceptions and that is what it deals with, special exceptions and the requirements dealt with shared driveways in special exceptions. And in this new requirement that you added back in October of 2009 it basically said that a new standard had to be used to prove whether or not there was an impact when you used shared driveways and it described that by the words "material increase" ok and basically the zoning code and I am paraphrasing says "if there is a material increase in the amount of vehicles using a shared driveway then the use shall not be permitted" ok now we are looking at well what does material increase mean and most of the things that I have dealt with in this case and that I have briefed you on in the past all talk about the ambiguity of it or the reasonable standard, what does that mean to people, and my understanding when you adopted this you put material in there because you had some discussions and you were advised at the time, well that is the best thing, if you go anywhere else in your zoning code there is no definition of material anywhere ok so your Board of Zoning Appeals which would be tasked with carrying this out doesn't know what kind of standard you are using for material, is it the one in Webster's, is it Black's Law Dictionary, is it something else. So I believe that in order to create a standard that is going to be enforceable you need to define the word material that is where we started off on this, what does material mean, when we started talking about that in our legal sessions about defining the word material then there became some discussions of well should we change the standard altogether, what you have before you and we had several different iterations of this, but 183-A basically changes the standard so that it creates a definition of material and 183-B changes the definition of the entire Section to basically eliminate the word material, so what is the practical effect, let me go with the first one 183-A, while the word says material increase later on in the section you are basically

putting the definition that says in determining what a material increase is, I am paraphrasing again, and the number of vehicles using a shared driveway, the Board shall consider the extent to which additional traffic A) increases by a significant intensity; B) increases by a significant volume; or C) is of such a nature and character to affect the residential character of the property which shares the driveway. This attempts to again it is still discretionary, there still has to be a Board of Zoning Appeals case, there still has to be testimony to support this, but in the process of creating this intensity lets use a hypothetical examples, somebody opens a Daycare, you may not have cars in there all day but in the morning you may have 10 cars and in the evening you may have 10 cars and maybe that intensity is material, something to that affect. Volume is obvious, significant volume, it has to be more than just a little bit, it has to be significant, and C is the nature and character, what if it is once a day but it's a septic truck or a dump truck or something like that, that is different than the nature and character of normal vehicles so basically what a person would want to do at a hearing on this matter is they would have to prove and offer testimony on both sides, is it not or is it, and then the Board can weigh the evidence that is put before them to determine whether or not it meets that standard. That is how we can quantify the word material, there were some other ideas that got rejected out of hand and the idea of what we were trying to get to was could you come up with a more mathematical formula, could you come up with something that isn't gray, it doesn't have to have decisions, and its almost impossible to do that because what is a material increase for you may not be for you, what if you have 4 kids that all have cars, that is a lot more traffic than somebody who lives by themselves so what would you judge the standard against. We kicked around the idea of judging it against the model planning standard, you know there is a certain number of average trips generated from a single family house if it is more than 2 or more than 3 does that lay into it, and again you got to the point where that might not be gray but it may be somewhat arbitrary at that point in time because you could have 3 times the normal trips, lets say the normal trips are 3 ½ a day but if I had 4 kids I would exceed that automatically so how does that ---. So A was an effort to define material. 183-B led into our discussion where you said perhaps you shouldn't have business uses on shared driveways, this only ever applies to shared driveways and in that case what you are doing to the Code is you are just removing the word material, so if you read the Code the way it would be it says " provided that on any residentially zoned property having a shared driveway any special exception that increases the number of vehicles using the driveway shall not be permitted" so you are taking away discretion if there is an increase it is not permitted, it doesn't have to be material, significant, any of that. And those were the 2 standards that after submitting a bunch of them to the Town it had come out to that decision.

Mr. Kuhlman: Thank you Sir. All right any questions of Mr. Gullo on the 2?

Mr. Hoewing: On 183-B if you approve commercial use in a shared use driveway but required people to park on the roadway and not use the driveway, so in other words they would have to walk in, would that still be permissible under that?

Mr. Gullo: Wade and I talked about that, it comes into the situation where if you were going to open a business use you have certain parking requirements and you can't count on street for those parking requirements.

Mr. Hoewing: Oh ok then it would prohibit that.

Mr. Gullo: It would inhibit that at that point in time, again we are kind of paraphrasing commercial parking requirements because you don't usually have that but you would not as a town allow that for a business, you would have to provide your own parking for those things. And in a situation that you are talking about, now you are having parking on a public street that is only going to move, kick the can down the road so to speak, now it is not confined to the property that is creating the impact, it is now impacting other people on the street. That would be a question under your normal special exception so when you have the hearings, how many cars would you have a day, well I will have 10 cars there, well you can't park them on your driveway that is what that Ordinance says, so you are going to park them on the street, then the neighbors will be able to say well I think that would be an impact because my citizens or my kids, we don't have parking for that type of thing, and you weigh that then in whether or not you can give the special exception, that is how that would play out.

Mr. Hoewing: Well struggling with this I agree with the notion that you try to do in 183-A which is you don't want to change the residential character, I think that is a good standard, on the other hand we've got 2 Daycares in the area where I am literally within a block or the one is the other one is farther away, but the one that is only a block away, I think when they got approval and they don't have a shared driveway, that is the main difference, but when they got approval they had to certify that people would just literally come in drop off, and leave, no parking, no staying, you can't leave your car running for 10 minutes, you just got to go in and go out, and it has been going for 5 years and nobody has raised any objections. So I am struggling with how to balance this because you do want people to be able to use their houses if possible without it impacting other people for commercial reasons.

Mr. Gullo: I tried to examine this from every side, what would every side think, the difference that sets shared driveways up if you want to look at this and I can look at every side for you, but you want to look at shared driveways versus normal driveways, you have 2 people that share a property entrance and so one of the solutions that I have submitted to the Town saying look at this was you need to agree, you and I share a driveway we come to an agreement and all we have to do is tell the Town that we agree because that puts us in a position where we have to work out things, I may not want your 10 cars going across my driveway so then I am going to say well we are going to have an agreement where you maintain the driveway and then I might be ok with it. In order to get my consent to move forward and the shared property interest is where you are saying normally the Board of Zoning Appeals looks out for the entire community and in the case of the Daycare for a special exception you have looked at the entire community and put conditions on it, you do that in these situations but you are starting with the underlying fact that two property owners share the same entrance and does that create a burden more for a property owner than just the general community.

Mr. Klobukowski: I think there is another issue too because 2 property owners are -- to each other, one of those owners could change, and the other new owner could object to what the other owner is doing and then you are right back where we are right now.

Mr. Gullo: Well I pulled that thread too to see where that would go and I would think I mean I know we are not examining that but just so you can see I followed that to the end, that if you went down that route basically now you have a public notice issue, its not somebody who is starting it up while I am here, it is I am buying one of the properties and therefore I'm going to put something on record, I am going to have public notice that I could have found out they have a business, maybe I don't want to buy the shared driveway or like in a lot of farm agricultural they have long driveways that are shared, they have public agreements that deal with the right of way maintenance and obligations so if the 2 parties had to come to an agreement they have to execute one of those, give it to the Town, it has to be on record, we have that agreement if you buy the house you are stepping into those shoes, whether you like it or not, if you didn't like it you shouldn't buy the house. So it tried to prevent this from being a case of first impression between the first property owners and the next person is buyer beware, but again that was rejected because you said well now you are putting the 2 property owners at odds and that didn't seem to be the way the Town wanted to handle it.

Mr. Hoewing: Ok so an option that you are suggesting though is that the Town could have something in writing, I don't know how you would word this Ordinance that would say the BZA can only consider a special exception if the 2 homeowners have reached agreement between them, an amicable agreement between themselves as to how the driveway should be used.

Mr. Gullo: Yeah I can give you the exact wording because I did pencil it in forgive me Mr. President but "provided that on any residentially zoned property having a shared driveway any special exception use shall only be permitted upon the written consent of the property owners having an interest in the shared driveway".

Mr. Kuhlman: The problem with that one though Link is you and I agree to it and I'm operating my business and you agree to let me do it, you sell your house and somebody else walks in there is no way to mandate that that agreement you and I came to together gets passed on to the new buyer of your home and even if there is, the new buyer doesn't have to agree to it so you are as he said buyer beware and you are back in the problem that the new owner doesn't like it, its half my driveway I don't like it, I don't want it there in residential use.

Mr. Hoewing: So then the business owner basically just have to understand that at some point they may have to actually buy their own facility or something.

Mr. Gullo: Well if you were going to head down that road, lets just pull that out, if you are going to head down the agreement road, you would want the parties once they reached an agreement to make that agreement on record, ok like a driveway easement and maintenance thing it is on record, so you two have that agreement, I want to buy your house, you are supposed to tell me these things, but even if you don't I am supposed to do a title search in which case I will find that existence of that agreement and most buyers they still buy it anyway because they don't understand the legalese and they are stuck and then they are unhappy but technically by having the agreement on record its serves as public notice that you know what you are getting into.

Mr. Kuhlman: If it is recorded it does.

Mr. Gullo: Right and so what you are talking about is if you flesh this out you would say well that's the standard that you got to make 2 people agree then the standard is not only you have to show the Board that you agree but you are going to have to have a document that is recorded and show me it is recorded on public record. That doesn't mean that it couldn't be messed up, the same 2 owners could come back and annul that after they have approval and you are not going to catch everybody in the net but that would be the intent.

Mr. Hoewing: Ok. I assume that this will be raised at the public hearing I am just asking the question, ok.

Mr. Kuhlman: Well unfortunately I don't think we can have a public hearing on both A and B I think we need to choose one to go forward to a public hearing with.

Mr. Klobukowski: Mr. President I recommend we go with 183-B because I think it is much more clearer and definitive and there is no ambiguity and I think we want to avoid that.

Mr. Kuhlman: Ok we have a motion for a public hearing of 183-B on October the 18th is there a second to that motion?

Mr. Hoewing: I will second it for discussion.

Mr. Kuhlman: Ok all right we have a motion and the 2nd to set 183-B for a public hearing on October 18, this motion would basically remove the right to have a special exception on a shared use driveway. Is there any discussion, questions, or comments?

Mr. Brown: How many shared driveways do we have again in Town that we are making this decision for?

Mr. Yost: About 40.

Mr. Brown: 40.

Mr. Kuhlman: Yeah.

Mr. Hoewing: So my view is that this is a legislative proposal but I am not saying I support it, I just want to have public comment I think it is important enough to get good public comment on it as Jerry said it is (inaudible) understand but if other people have other ideas like we were just discussing I want to hear them. That is why I am voting for this, I am not voting for it because that is the one I want to do, I am not sure I do at this point.

Mr. Klobukowski: If we have 40 we are going to have 41 because there is going to be one in Brightwell Crossing that is going to have one driveway and three houses on it.

Mr. Hoewing: Yeah that is even worse.

Mr. Kuhlman: All right any further questions or comments? Hearing none I will call for question on the motion, all in favor?

All: Aye.

Mr. Kuhlman: Opposed, motion carries unanimously 183-B will be set for a public hearing on October 18th.

Committee Reports

Mr. Kuhlman: All right committee reports Planning Commission.

Mr. Hoewing: I was unable to make the meeting and I don't think George is here tonight.

Mr. Yost: We had a discussion on where we are with the survey that had gone live, we had about 200 folks fill it out so far, it only goes to September 30th so we are

trying to get the word out as much as possible to get more people involved and go to the website and click on the Master Plan link and fill it out.

Mr. Kuhlman: All right Parks Board Jim.

Mr. Brown: Parks Board meeting we approved some permits with a little bit of sparring back and forth. Then we talked about some Boy Scout project updates, then we had a general discussion about the Skatepark and the actions of the Town Manager in terms of what happened with the closing of it and reopening of it. And we also had a discussion about the possible shade area and made a recommendation for a possible shade area for inside the Skatepark.

Mr. Kuhlman: All right thank you Sir. Lori CEDC.

Ms. Gruber: We are meeting this Wednesday.

Town Manager's Report

Mr. Kuhlman: Ok. Town Manager's Report.

Mr. Yost: Just to follow up on what Jim was saying, yes I was the bad guy and closed the park for the trash accumulation. And it is back open since Friday and the kids are policing it themselves, it is very clean, nice and neat and no problems.

Mr. Hoewing: Yeah so far it looks pretty good. I think it was the right thing to do.

Mr. Kuhlman: Anything else Wade?

Mr. Yost: No.

Mr. Kuhlman: While we are here at the moment I found something I meant to announce under announcements. I went to the Montgomery Maryland Municipal League Chapter meeting the other night and the State Representative, well it was Delegate Sheila Hixson was there to give us an update, she says right now currently they just had a meeting a few weeks ago and the State is looking at about a 1.5 billion dollar deficit to start the budget this year and I believe so you can check your calendars, December the 16th looks like the date for the Legislative Dinner and also November is the Maryland the Municipal Government Work Week and they are asking us to have a written proxy on that declaration, I will give that to you after the meeting.

Citizen's Forum

Mr. Kuhlman: All right Citizen's Forum anybody have anything in general.

Ms. Gruber: Eddie I do have one question, did I'm sorry was the potential for Ms. Jan Schultz to the CEDC was that discussed, was that...

Mr. Kuhlman: She can't make it tonight.

Ms. Gruber: Ok.

Mr. Kuhlman: So that part of it is scratched out of the Executive Session.

Ms. Gruber: Thank you.

Mr. Kuhlman: All right Citizen's Forum anybody have anything?

Adjournment

Mr. Kuhlman: Seeing no hands I entertain a motion to adjourn to an Executive Session. Jim if you would read it.

Mr. Brown: I would like to make a motion to adjourn to Executive Session as provided for by the Annotated Code of Maryland State Government Article Section 10-508(a)(7) to consult with council to obtain legal advise regarding the Mevissen's request.

Mr. Kuhlman: All right is there a second?

Mr. Klobukowski: Second.

Mr. Kuhlman: All in favor?

All: Aye.

Mr. Kuhlman: We are adjourned to an Executive Session.

**Executive Session Minutes
September 20, 2010**

The Commissioners adjourned to an Executive Session as provided for by the Annotated Code of Maryland, State Government Article: Section 10-508(a)(7) to consult with Counsel to obtain legal advice regarding the Mevissen's request.

Present: Commissioners Lori Gruber, Link Hoewing, Eddie Kuhlman, Jim Brown, Jerry Klobukowski, Town Attorney Jack Gullo and Town Manager Wade Yost.

The Commissioners inquired about the Mevissen's request regarding the existing in home business. After a short discussion, the Town Attorney was instructed to contact the attorneys of all parties concerned and to field all inquiries regarding the ongoing litigation.