

June 13, 2011

## Board of Commissioners Meeting

The Wendell Board of Commissioners held its regularly scheduled meeting on Monday, June 13, 2011, in the courtroom of the Wendell Town Hall with Mayor J. Harold Broadwell presiding. Also in attendance at the meeting were Commissioners Carol Hinnant, Sid Baynes, Christie Adams, Ira Fuller and Virginia Gray; Town Manager Hugh Montgomery; Chief of Police Vance Johnson; Lieutenant Bobby Langston; Planning Director Teresa Piner; Planner David Bergmark; Attorney Jim Cauley; Public Works Director Alton Bryant; Public Works Crew Leader Robert Helms; Public Works Specialist Billy Denton; and Brian Slattery, editor for the Eastern Wake News.

Mayor Broadwell called the meeting to order at 7 p.m.

The Pledge of Allegiance was led by Chief Johnson and the invocation was given by Commissioner Fuller.

### **Adjustment and Approval of the Agenda**

Commissioner Adams made a motion to approve the agenda as written. The vote was unanimous.

### **Item 1 - Public Comment Period**

Dwayne Clark – Mr. Clark talked about the need for increased accessibility on the sidewalks. He said between Third and Main streets there was only one ramp. He said he met with North Carolina Department of Transportation about the drainage and the sidewalks in front of Wendell Elementary School. He said his wheelchairs have been damaged. He asked how he could assist with sidewalk improvements.

Regina Harmon – 6616 Tells Branch Road – Ms. Harmon said she wanted to say thank you to the Board for not making a decision on Wendell Falls and taking the time to review the agreement. She thanked the Commissioners for continuing to listen to the people of Wendell.

Glenda Stephens – Ms. Stephens said she was concerned with chickens in Wendell. She said she had space for the chickens in her back yard and she was told that they would have to be moved past the city limits line. Since she moved them several had died. She said several other municipalities allowed chickens within their town limits. Mayor Broadwell said there was a study done about allowing chickens in town some time ago and that maybe it should be looked at again.

Ann Stewart – Hollybrook Road – She said that town events should be better advertised. She said Wendell needed a visible sign for upcoming events at the end of Main Street. She also suggested what was in the News & Observer letter to the editor saying all the emergency vehicles should turn on their sirens when a tornado warning was issued.

**Item 2 - Consent Agenda**

- a. Approval of the Minutes from the May 23, 2011 Board of Commissioners meeting
- b. Approval of the Wake County Tax Report for April 2011
- c. Establish July 11, 2011 as date for Public Hearing to amend the Town Code of Ordinances and the Unified Development Ordinance regarding Exemptions for Certain Farmlands.

Commissioner Baynes asked if the suggestions made at a previous Board meeting had been incorporated into the UDO. Mr. Montgomery said that this was a motion to set the public hearing only. Commissioner Baynes asked if the Board could look at the actual ordinance, but was fine with establishing the date. Commissioner Hinnant asked if they could set the hearing without the actual ordinance. Mr. Montgomery said yes. Commissioner Hinnant made a motion to approve the consent agenda and it passed unanimously.

**Item 3 – Public Hearing – FY 2011-2012 Budget**

Mayor Broadwell opened the public hearing.

Manager Montgomery thanked the Board for giving him the opportunity to prepare the budget. He then described the Capital Reserve Fund. The Capital Reserve Fund allow for the Board to allocate unencumbered funds for capital projects. He said that the recommended tax rate was to remain at 49 cents.

Commissioner Hinnant asked about Commissioner Fuller’s recommendation for a different rate charge for solid waste. Mr. Montgomery said the total amount was \$19, three dollars less than the \$22 charge last year. Commissioner Hinnant asked if the employee raises were merit. In the budget message it said cost of living and merit. Mr. Montgomery said that he had not modified the budget message, but it would be merit raises. Mr. Montgomery said evaluations would be conducted by the department heads. Commissioner Baynes asked about the capacity charges. Mr. Montgomery said the capacity charges were a component of the fee schedule. He said additionally the Board of Commissioners could be the only body to allocate capacity. This would be a change from when the Technical Review Committee could recommend allocation. Commissioner Hinnant asked about the fee schedule in the narrative. Mr. Montgomery said that Mr. Kay would have a narrative to them by the next morning. Commissioner Hinnant said she wanted to extend the public hearing until the public had a chance to review the narrative. Mr. Montgomery asked Mayor Broadwell to extend the public hearing to June 27, 2011. Mayor Broadwell said he would, but would like the people in the audience to have a chance to speak.

Regina Harmon – Tells Branch Road – Ms. Harmon asked how she could get a copy of the budget. Mayor Broadwell said there was a copy of the budget available at Town Hall.

The public hearing was recessed to June 27, 2011 at 7 p.m. during the regular board meeting.

**Item 4 - Consideration of a waiver of competitive bidding under G. S. 143-129(g) to purchase a truck mounted knuckleboom loader with trash body as previously awarded by the City of Greenville, S.C. by Carolina Environmental Systems, Inc. Presentation by Robert Helms, CDL – Crew Leader; and Billy Denton, CDL - Public Works Specialist.**

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Mr. Montgomery introduced Public Works Director Alton Bryant; Public Works Specialist Billy Denton; and Crew Leader Robert Helms. Mr. Montgomery said the department was working on creating a new procedure for collecting limbs and bulk waste.

Mr. Helms said it took two people and several man hours to complete the tasks. He said because the bulk waste was many different sizes and weights, it was very strenuous. He also said they encountered snakes, ticks, fire ants, and biohazards including blood and needles. He said they were limited to the materials they could physically pick up because the machine would not take large limbs or logs. He said they collected more than 2 million pounds of bulk waste in the last fiscal year.

Mr. Helms also presented information about the chipper. He said there were three men on that truck. Mr. Denton said there were safety issues because it took heavy concentration. Mr. Helms said there were also concerns with hearing because the chipper was very loud and that they performed these tasks at 6:30 in the morning which disrupted citizens. He also said there were several items that got lodged in the chipper and caused it to break down. He said that several of their jobs required the crew to return back to the operations center prior to continuing to the next house.

Mr. Helms said using a new knuckleboom truck, it would be a one-man system and much safer. The safety benefits included hearing, not being in traffic, and would eliminate the possibility of objects falling on workers. He said with a knuckleboom, preparation work was significantly less than the current machine. The knuckleboom also does not create safety issues related to snakes, ticks, bio-hazards, and traffic.

Mr. Bryant said there were several things to consider when reviewing this request. A member of the Public Works staff left his position with the Town earlier in the year leaving approximately \$35,750 undesignated money within the department. He said that the Town would not use a private site to store the wood chips, but a Town owned property where a private company would come to grind down the chips. Mr. Bryant said the Town of Zebulon currently produces high quality mulch which is available to their citizens.

Mayor Broadwell took a short recess for technical issues to be fixed.

Commissioner Hinnant asked if the trailer of the knuckleboom was compactable. Mr. Denton said the knuckleboom would push the limbs down to compact them in the trailer. Commissioner Hinnant also asked how much the commercial service charged to grind down the mulch once at the town's facility. Mr. Montgomery said it would cost \$15,000 for every time the machine would come to grind down the materials. He said Zebulon has used it three times in two years. Mr. Montgomery said that Wendell had a much larger place to hold the materials. Mr. Bryant said they have identified 0.6 of an acre to store the material.

Commissioner Baynes asked about the additional costs to purchase the knuckleboom. Mr. Montgomery said that he would like to prepare the storage site with appropriate drainage. Commissioner Baynes also asked what type of items they could not pick up currently. Mr. Helms said they could not pick up items over 4 cubic feet in size.

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Commissioner Adams asked how the time needs would be decreased. Mr. Helms said that primarily by the number of people being used to complete the job. Commissioner Adams asked if Mr. Montgomery had included the total cost of the knuckleboom in the Capital Reserve Fund of the budget. Mr. Montgomery said it was included.

Commissioner Gray asked if the \$15,000 was for one haul or amount for weight or some other measure. Mr. Bryant said that it was based on an estimated amount for one haul including labor, tonnage and other factors. Commissioner Gray also asked about increasing the pickup. Mr. Bryant said they would be able to pick up additional material. They also said that training would be involved. Mayor Broadwell said that the Town had the opportunity to try out the machine for several weeks.

Commissioner Baynes asked if the money for the grinder was in the budget. Mr. Montgomery said that the money was not reflected in the operating budget.

Mr. Montgomery said he would like to commit to the purchase of the vehicle and waive the bidding process. He said that this was in the Capital Reserve Fund as approved by resolution previously by the Board of Commissioners.

Commissioner Hinnant made a motion to delay the vote on this item until the complete budget is voted on June 27, 2011.

Commissioner Fuller asked if the Town would still have an opportunity to piggy-back with the City of Greenville if the vote was delayed by two weeks. Mr. Bryant said that the City of Greenville purchased their vehicle in December 2010 and the Town of Wendell had one year to make a purchase according to the General Statute. Mr. Montgomery said currently there was a truck waiting for the Town of Wendell to purchase when the funds were approved. Mayor Broadwell asked how long the truck had been waiting. Mr. Bryant said based on the current verbal agreement, the truck should be available in two weeks at last year's cost.

Commissioner Hinnant asked if this item was approved today if the money would be spent in this fiscal year or the next fiscal year. Mr. Montgomery said currently the item was in the next fiscal year's budget. Mr. Cauley said because it was in the Capital Reserve Fund, the truck was in both budgets.

Commissioner Hinnant's motion to table the vote until June 27, 2011 passed unanimously.

**Item 6 – Request by the United Arts Council of Raleigh and Wake County to use the Community Building for purposes of receiving public comment as a component of the Culture Planning Process.**

Commissioner Baynes made a motion to approve the use of the Community Building by the United Arts Council. The motion passed unanimously.

**Item 7 – Consideration of increases in water and wastewater consumption rates as recommended by the City of Raleigh.**

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Mr. Montgomery recommended water and wastewater rates increase 7 percent over all fees. Commissioner Baynes asked how the administrative costs were calculated. Mr. Montgomery said he was unsure how the amount was calculated by Raleigh but that the Town of Wendell received 25 cents from every bill collected in Wendell which generated \$24,000-\$25,000 per year.

Mr. Montgomery said that the increase was represented in the fee schedule along with the decrease in solid waste fees. He said the 7 percent increase was enough to prevent a surcharge from the City of Raleigh.

Commissioner Baynes asked if the savings from the new equipment would make up the reduced revenue from solid waste fees. Mr. Montgomery said they were developing a cost-benefit analysis for this program. He said he believed that with the actual costs and the other costs in safety, hours, and disposal would make up the reduced revenue.

Commissioner Fuller made a motion to approve the 7 percent increase in the fees of water and wastewater beginning with the new budget year. The motion passed unanimously.

**Item 8 – Resolution authorizing County to collect property taxes for the Town of Wendell during fiscal year 2011-2012.**

Commissioner Hinnant made a motion authorizing Wake County to collect property taxes for the Town of Wendell during fiscal year 2011-2012. The motion passed unanimously.

**Item 9 – Notice from Mr. Garland Burnette, Area Director USDA that our Rural Development Business Enterprise Grant application has been reviewed and is considered eligible for funding. In order for our application to move forward we are required to authorize Mayor Broadwell and the town manager to sign documents identifying the terms and conditions of the RBEG grant.**

Mr. Burnette said the purpose of the Rural Development Business Enterprise Grant was to stimulate economic development and create or maintain jobs. The first grant was extended to the Town of Wendell in 2009 for \$97,173 which was used to make improvements to the sidewalks in downtown Wendell. This project is three phases. Mr. Burnette said \$75,000 was extended for phases two and three of the downtown Wendell sidewalk project. The Town of Wendell is required to match \$75,000. Mr. Burnette said this award was contingent on the funds being available. He presented a basic letter of conditions. The conditions were much like the conditions with the prior grant.

Mr. Montgomery said they have not chosen the engineer for the project and that it would go out to bid. He said the money for this project was in the Capital Reserve Fund.

Commissioner Baynes made a motion to approve a resolution to accept the terms set for set for in the United States Department of Agriculture Rural Development Business Enterprise Grant. The motion was approved unanimously.

**Item 10 - Request to authorize the Town Manager to negotiate for professional services related to a Traffic Impact Analysis and Planning Document of the intersection of US 64 Business and SR 1003.**

Mr. Montgomery said he sent out a request for qualifications several months ago and that the Town received 16 different RFQs and reduced that number to four different firms. Mr. Montgomery said he had further narrowed down the firms he was interested in interviewing to one firm. Mr. Montgomery requested permission to negotiate with that firm. He said the Board of Commissioners passed a resolution approving funds from the North Carolina Department of Transportation at a match of 25 percent from the Town. The match was approximately \$25,000 that was currently in the Capital Reserve Fund. He said the funds also may be allocated from Powell Bill Funds.

Commissioner Hinnant asked why the Board was approving these projects now when this was a part of the Budget Ordinance to be approved at the next meeting. Commissioner Fuller said the money would be spent in fiscal year 2011-2012.

Mr. Montgomery said he would like authorization to negotiate with an engineering firm and would not be allocating any funds until FY 2011-2012.

Commissioner Hinnant made a motion to authorize the manager to negotiate with an engineering firm related to traffic analysis at the intersection of US 64 Business and SR 1003. Motion passed unanimously.

**Item 11 - Update on extension of the Town of Wendell Exterritorial Zoning Jurisdiction to include the areas provided for by Legislative act.**

Mr. Montgomery said a resolution had been updated and the Planning Department has recommended going back to the Wake County Planning Board with the amended resolution. The amended resolution decreased the requested Extraterritorial Jurisdiction by approximately 1,000 acres.

Commissioner Hinnant asked about the impact of the economic downturn and how everyone was having difficulty annexing properties. She said the Town of Wendell was being penalized for the lack of development from the downturn. She said that should be discussed between Town of Wendell and the Wake County Planning Board. Mayor Broadwell said there have been several discussions with Wake County concerning the Town of Wendell ETJ request and the Knightdale ETJ request. The uncertainty comes out of items number six and seven of the seven points of qualifications.

Commissioner Adams asked about the Knightdale ETJ request that was recommended for denial by the County Planning Board. Mayor Broadwell said that their request was recommended for denial because of the criteria six and seven and farmland exemptions.

Commissioner Baynes said that there were never discussions for annexations when this process began. The intentions were protecting the base and creating an area for a shovel ready site. He said he did not see that the modifications protected the south side of the town limits. Commissioner Baynes said he would rather submit the request to the Wake County Board of

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Commissioners rather than take an amendment back to the Wake County Planning Board. Commissioner Hinnant agreed.

Mayor Broadwell said that one of the concerns regarding the annexation was the size of the request. The request was 3,950 acres and many of the concerns were around Lake Myra. Commissioner Hinnant said that protecting the southern corridor was important because the town has invested in the interchange. Commissioner Baynes said there were other properties that needed to be protected.

Mr. Cauley said the statement made about ETJ residents voting in municipal elections the Wake County Planning Board's cannot be addressed by the Board because there was no legal basis of that statement.

Commissioner Hinnant made a motion to go before Wake County Board of Commissioner with the existing request. The motion passes unanimously.

**Item 12 - Review of an Amendment to the Developers Agreement between the Town of Wendell and Redus, LLC. Agenda Item includes letter from Mr. Robert Massengill, PE – Assistant Director, City of Raleigh Public Utilities.**

Mr. Montgomery said on Thursday evening he received an updated amendment to the development agreement.

Commission Hinnant went over the four current issues with the agreement: open space; phase II; Richardson Road; water and wastewater; and the UDO. She said that Wells Fargo had agreed to more open space, water and wastewater allocation with prepayment and additional units in Phase II.

Commissioner Hinnant made a motion to accept the amendment to the developer's agreement between the Town of Wendell and Redus, LLC.

Commissioner Baynes said the Town guaranteed there would be water available for the development. He said based on his information, the Town would not have enough water to comply with the developer's agreement. He said that the Town did not have an agreement for Phase II. He said that he was fine with all the other aspects of this agreement except the water and wastewater part of the agreement.

Commissioner Hinnant said that they were not dealing with the water and wastewater tonight, just Wendell Falls. If there was no water supply, then they could not buy the water.

Commissioner Baynes said that the agreement said that the water and wastewater must be available to be purchased.

Lacy Reeves, attorney for Redus, LLC, agreed and said paragraph six addresses the schedule of purchases. It said within the development document that the additional purchases of water and wastewater shall be available for purchases.

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Commissioner Gray spoke about the UDO. She said that the UDO was separate from the development document.

Commissioner Adams said she saw opportunity for economic development with Wendell Falls.

Commissioner Baynes said that he did not receive a copy of the new development agreement until the day of the meeting and it did not have the “paragraph c” talking about any additional purchases and not the actual purchases in the first schedule.

Mr. Montgomery said that he had a very productive meeting with the engineers from Raleigh and that they have a program that would show the flow of water and wastewater. The changes in the development documents reflect changes required by the City of Raleigh. In order to serve Wendell Falls in addition to other planned developments the City of Raleigh will require that the Town keep 550,000 gallons of water and 150,000 of wastewater from the amount that the Town was going to give back. The Town water and wastewater will grow at 4 percent from 1.5 million gallons instead of 1 million gallon.

Commissioner Baynes said that the Town was originally going to give back \$25 million worth of debt and with the new plan it would be giving back \$22 million worth of water and wastewater to the City of Raleigh.

Mr. Montgomery said that paper capacity is available until 2025. He said there was an entity committed to paying back the debt – Redus, LLC. There is an annual amount that will be used to operate the water and wastewater operations. Mr. Montgomery said that the citizens of Wendell were facing 7 to 9 percent increase in rates until the merger is paid off without this entity.

Commissioner Hinnant made a motion to approve the amendment to the developer’s agreement between Redus, LLC and the Town of Wendell. The motion was approved 4-1 with Commissioner Baynes voting against.

**Item 13 – Language in the Unified Development Ordinance regarding farmland**

Mr. Montgomery asked for feedback on the language of the farmland amendments to the UDO.

Commissioner Baynes said we were complicating the process and that the Town was creating another level of bureaucracy for farmers. He said that there was land less than 3 acres currently being used as farming. He suggested that the UDO say, “Consist of one or more tracks one of which is more than 3 acres.” He also said that he had issues with the provision that you have to generate \$1,000 of farm sales over a three year period. He said there were several other businesses that fall under farming activities that would not generate farm sales, such as a horticulturist. He also said that crops fail and the insurance would be the only income. He suggested allowing it to read “\$1,000 of farm income.” Commissioner Baynes said this was common with the County and State. He suggested using the definitions from Wake County and consider wildlife conservation areas.

Mr. Bergmark said number one was written so that any land that is currently considered farmland will continue to be considered even if they do not currently reach the size limit in the UDO. The



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UDO also gives farmers an opportunity to have a 3 acre farm in Wendell when the State would not approve that size. Mr. Bergmark also said he could change the wording from “\$1,000 of farming sales” to “\$1,000 of farming income.”

Commissioner Baynes said that State law permitted wildlife conservation districts and would like Wendell to include that in the UDO. Mr. Bergmark said he could add language to the document for wildlife conservation districts. He said that farmland and wildlife conservation districts were two different items. Adding the wildlife would be just additional language.

**Item 14 - Commissioner’s reports**

Commissioner Gray said she attended the group of downtown people. She said that grassroots groups were the best way to go. She also attended the Fifth Grade Graduation at Wendell Elementary School. Wake County recognized the “Spotlight Student” from each school. She said she would like the Town Board to recognize those students and valedictorians. She thanked Parks and Recreation for increasing the number of programs that they offer.

Commissioner Fuller had no report.

Commissioner Adams met with Economic Development Coordinator Maggie O’Neill for the newsletter layout. Commissioner Adams will be attending the Community Advisory Committee this week.

Commissioner Baynes had no report.

Commission Hinnant had no report.

**Item 14 - Mayor’s report / comments**

Mayor Broadwell had no report.

**Adjournment.**

Commissioner Gray made a motion to adjourn. The vote was unanimous.

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J. Harold Broadwell, Mayor

Attest:

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Jonnie S. Driver, Town Clerk

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**WORKSESSION MINUTES**

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**1. Consideration of a Stormwater Management Project to relieve flooding in the Lake Drive Area – Presentation by Mr. Alton Bryant, Director of Public Works.**

Mr. Montgomery presented the Board of Commissioners with a Capital Reserve Budget that included a Stormwater Management Project. Mr. Bryant introduced the Lake Drive Stormwater Improvement Project. The Town has completed an engineering analysis which showed the Town has a 42 inch trunk line which is inadequate to handle a large rain event. He presented two alternatives from October 9, 2009. One was to construct a new closed pipe at \$390,400 or a new combined closed pipe and open channel system at \$263,000. He said there were three streams that came together near the study area.

Mr. Bryant said the department came up with a third alternative. This proposed alternative would be to construct a combined enclosed pipe and open channel system but not remove the 42 inch line. The previous plan included removing that line. Alternative three would also add a 48 inch parallel line. The total cost was approximately \$62,000.

Commissioner Hinnant asked if the ditch was large enough to take care of the flow to the two new pipes so there was no flooding on Haywood. Mr. Bryant said that ditch could handle more capacity than it currently was holding.

Commissioner Hinnant asked about the sharp right the stream takes through Mr. June Perry's yard. Mr. Montgomery said the flooding was not coming from that stream, but that the other two drainage basins were getting backed up because the stormwater had no place to go. Mr. Montgomery said that this alternative would allow the existing system to add more capacity and take the pressure out of one pipe by installing a parallel 48 inch pipe with connections to take place at location of existing junction boxes.

Mr. Bryant said the North Carolina Department of Environmental and Natural Resources Division of Water Quality ruled there was no buffer needed and installation would not impact streams. He added that the United States Army Corps of Engineers had issued a concurrence and said no 404 permit was required. Currently, Mr. Bryant is identifying and contacting adjacent property owners.

Mr. Montgomery said that this project was part of the Capital Reserve Fund and was included the proposed budget.

Mayor Broadwell asked if there was a consensus to move forward. The Board of Commissioners said they would consider the project with the fiscal year 2011-2012 budget.

**2. Review of Resolution as approved requesting that the City of Raleigh accept water/wastewater treatment capacity and remove various construction projects from the Merger Pro-Forma.**

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Commissioner Fuller asked if the capital projects and the letter had been submitted to the City of Raleigh. Mr. Montgomery stated that he had submitted the Resolution approved by the Board on March 24, 2011 which contained the water and wastewater treatment capacity and the expansion projects.

Mr. Montgomery said that Mr. Massengill from the City of Raleigh asked if it would be beneficial to extend the terms of the merger agreement. Mr. Montgomery said the Town would like to pay off the merger costs as soon as possible. Commissioner Hinnant said the Board had considered that in the past and would like to consider it again.

Commissioner Baynes said the resolution must be modified not to return all the capacity based on the resolution for Wendell Falls. He said Mr. Massengill had said there were problems with marked out projects. Mr. Montgomery said we must complete all projects that are not related to system expansion.

Commissioner Fuller asked for this resolution be placed on June 27, 2011 agenda.

**3. Discussion of unfinished business and policy matters for future consideration by the Board of Commissioners.**

Commissioner Hinnant said the Board needed to revisit chickens, the condition of Depot Street, rental properties, grass cutting list, and the status of the Lake Myra fields and the desire to play soccer.

Commissioner Gray said the Board needed to revisit grass, signage on cars and downtown business owners, chickens, kiosk or signage around town, rental housing, and the emergency signal.

Commissioner Fuller said he had no items to add but would like to revisit the goals and priorities list.

Commissioner Adams said the Board needed to revisit rental properties and adding the agendas to the news section or homepage of the website.

Commissioner Baynes said the Board needed to revisit space needs, grass cutting, open space land master plan, rental property and registration aspect of it, how to deal with failed or stalled developments and how to deal with them such as moving fees to the front end, and the email procedure. He said he would like to formally publish the policy or procedure. He would like to put it in writing and share it with everyone. Commissioner Baynes said the make-up of the agenda was confusing and there were no handouts. Commissioner Hinnant asked that all agenda items start on a front page.

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Commissioner Fuller moved to adjourn the meeting. The motion passed unanimously.

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J. Harold Broadwell, II, Town Clerk

Attest:

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Jonnie S. Driver, Town Clerk