

September 18, 2007

The Greenville Planning and Zoning Commission met on the above date at 6:30 p.m. in the Council Chambers of City Hall.

Mr. Len Tozer - *
Mr. Bob Ramey - * Mr. Dave Gordon - *
Mr. Jim Moye - * Mr. Tim Randall - *
Mr. Don Baker - * Mr. James Wilson - *
Mr. Bill Lehman - * Mr. Porter Stokes - *
Mr. Godfrey Bell, Sr. - * Ms. Shelley Basnight - *

The members present are denoted by an * and the members absent are denoted by a x.

VOTING MEMBERS: Tozer, Moye, Lehman, Gordon, Baker, Wilson, Randall, Stokes and Ramey.

PLANNING STAFF: Merrill Flood, Director of Community Development; Harry V. Hamilton, Jr., Chief Planner; Chantae Gooby, Planner; Andy Thomas, Planner; and Kathy Stanley, Secretary.

OTHERS PRESENT: Council members Ray Craft and Chip Little; Dave Holec, City Attorney; David Brown, City Engineer; Wayne Nottingham, Engineer.

Chairman Tozer recognized Council members Ray Craft and Chip Little.

Ms. Stanley noted that Mr. Randall was not indicated on the August minutes as a voting member and should have been.

MINUTES: Motion was made by Mr. Ramey, seconded by Mr. Stokes to accept the August 27, 2007 minutes as amended. Motion carried unanimously.

REQUEST BY PORTER'S GROVE, LLC – DENIED

Chairman Tozer: Item Number Four, Old Business. Request by Porter's Grove, LLC. Before we get started I'd like to say something here. As you well know we visited this issue last month so I should be fresh in your minds. We had a public hearing so both sides had an opportunity to deliver their facts and findings on the issue. After that each side had an opportunity to rebut the other. The public hearing was closed. The Commission then had discussion. Several members expressed their views on this issue. The Commission then voted to give the parties an opportunity to find compromise. Tonight I think we should visit anything that relates to compromise. If there is no compromise and we stay in the same playing field we need to vote the issue.

Mr. Ramey: Mr. Chairman is the young man Cliff here from GUC? Would you come forward please I want to ask him a few questions.

Chairman Tozer: That will be fine.

Mr. Cliff Cahoon: Yes sir.

Mr. Ramey: Cliff I'm not going to say anything to embarrass you. I just want to know for my own personal satisfaction, true or false. When you met with these developers in December did at that time you say that you had no plans to put a sewage line in that area? Yes or no?

Mr. Cahoon: I did say that. There were no plans for a project at that time.

Mr. Ramey: That's fine. Next question I want to ask you. I've talked to several developers, they say when they apply for a permit it takes from two months to four months to get a permit. Why does it take so long? Why can't you give them a permit in 60 days?

Mr. Cahoon: A permit from whom?

Mr. Ramey: From a developer.

Mr. Cahoon: From the state?

Mr. Ramey: From a man who is developing a piece of property and he applies to you for various permits they have to have. Why does it take 2 to 4 months?

Mr. Cahoon: Greenville Utilities doesn't issue the permits. We review the plans and we submit them to the State for permitting.

Mr. Ramey: The red tape then is tied up in the State rather than Greenville Utilities? Is that what I'm hearing you say. If you present it to the State and they keep it for 2, 3, or 4 months, they're the ones that's tying it up then.

Mr. Cahoon: Different projects take different lengths of time. Water and sewer will take different lengths of time than a typical construction plan. We allow ourselves 30 days to review that and get it back whether it's approved or not. We typically do that quicker than 30 days. If there's review comments and it has to come back then there would have to be another review period. Hopefully, the second review period and any subsequent one would be quicker because you're really only reviewing your previous review comments.

Mr. Ramey: Have you approved or has GUC approved the sewage line in this particular area we're talking about tonight?

Mr. Cahoon: The outfall line?

Mr. Ramey: Yes.

Mr. Cahoon: There is no construction plan right now for that outfall line. We are in the process

of trying to draft agreements and get cost participation agreements in place to move forward with the design.

Mr. Ramey: Do you have any idea when you will start it? Start construction of it?

Mr. Cahoon: I could not tell you that with any certainty right now but we will move ahead as quickly as we can. Assuming this matter comes to close tonight we would be moving forward immediately to draft agreements with the developers to get that process started.

Mr. Ramey: How long would that take?

Mr. Cahoon: It could be as quick as a matter of a couple of weeks to get an agreement in place.

Mr. Ramey: You could start construction then.

Mr. Cahoon: Oh no. That would be to start the design process, to get the money in place to start the design process. Actually to carry that one step further we could get the agreements in place but then we'd probably would need Greenville Utilities Board approval to move forward with the outfall project.

Mr. Ramey: I see.

Mr. Cahoon: That would be as immediate as it can happen.

Mr. Ramey: Well, it seems to me these things take too long I believe in doing things a little quicker than that but everybody has a way of doing things. I don't think it's fair for some people, developers, contractors, to hold them up too long and they have to pay extra interest. They plan on paying some because they know it takes time but when you hold them up 2 to 3 months longer than they plan it's a disadvantage to them. You're taking away their profit of the development. I think maybe this needs looking into down the road in the legislature. You can rest assured it shall be done.

Mr. Cahoon: Yes sir.

Mr. Ramey: Thank you.

Chairman Tozer: Any more questions for Mr. Cahoon?

Mr. Baker: Yea, I have one question. Assuming say six months they told you they were ready now for the water and sewer. That was the only thing holding them up from actually starting construction. How long would it be after that time that they would actually have it on-site?

Mr. Cahoon: The Commission at its last meeting approved a capital project budget to provide sewer service to this project when needed. We have gotten estimates on methods to do that, we are ready to move ahead with that. Greenville Utilities has committed to have sewer service

available to this project when it's needed.

Chairman Tozer: Don you remember at the last meeting Mr. Dixon assured us that if necessary it would be pumped.

Mr. Ramey: Len, it's illegal to pump.

Mr. Cahoon: And there are other methods available.

Chairman Tozer; Correct. Any more questions for Mr. Cahoon?

Mr. Randall: Actually I've got one question. As part of the information packet that I have here. GUC states that this cost is not required, that was for on-site sewer \$76,458 that the developer said would be part of their cost. They were basing that on the fact that they would fund an 8 inch sewer main but an 18 inch would be planned. Greenville Utilities would absorb the difference but they would have to pay the \$76,000. Is that not the case?

Mr. Cahoon: That \$76,000 is part of the August 6 estimate I believe from last month. That was a figure that should not have been there. We've reconciled that with the engineers they understand now at this point that it shouldn't have been there. That was a figure for putting some outfall line in that they don't have to pay above and beyond the acreage fees that are already in the estimate.

Mr. Randall: So they would definitely not have to pay that \$76,458?

Mr. Cahoon: That's correct.

Mr. Randall: Okay.

Chairman Tozer: Any more questions? Thank you. To kind of move this along, excuse me, Counselor.

Mr. Dave Holec: Just to make sure that you have consensus with this from the Board. As you said before is that you all did hold your public comment, public hearing, at your last meeting. It's back to you. You're not required to have another, to have anything, receive any additional public comment, the Chairman suggested that you not do that. Unless a Board member makes a motion to ask for public comment then that will stand, his determination on that. Additionally Mr. Chairman, you do have the staff ready to make a presentation before, to set the stage for you. I had sent you a memo too, would be willing to go over that if you want that. Again, it's at your discretion as to what you want to do.

Chairman Tozer: Thank you. Can I get a motion?

Mr. Moyer: I will make a motion that we go forward with the plan that you just verbally presented where the public hearing was conducted last month. We will hear any compromise issues that comes out from both parties and then we'll have a discussion and vote on it.

Mr. Lehman: I second.

Chairman Tozer: I have a motion by Mr. Moyer, seconded by Mr. Lehman. All in favor? Aye's have it. My plan Mr. Holec is to now have Andy come up and give us an update on what happened as far as any compromise on this issue. That's what we're looking at. We don't want to hear anymore of what we've already heard in the last meeting.

Mr. Holec: I believe we have a representative from GUCO that might be the better person to address what happened with that meeting.

Chairman Tozer: I think then I would need to give the other party an opportunity then to explain to and I wanted. What I'd like to hear is, is there a compromise or is there not. It's really an easy question.

Mr. Randall: That was my question I was trying to ask.

Chairman Tozer: I mean does the developers still want septic tanks and the utilities is still going to have the sewer then the discussion is over.

Mr. Thomas: You'd probably be better served to have Greenville Utilities tell what happened at the meetings because I was not at the meetings. My understanding of the meetings is that the developer held firm and their desire to develop the property with septic tanks and was not interested in discussing the potential of servicing this property with sewer.

Mr. Baker: Did they come up with a price, a more concrete price to the cost of the developer?

Mr. Thomas: Didn't ...

Mr. Baker: I said did the city come up with a price because last month there was a discrepancy of what the city said it would cost and what the developer anticipated what it would cost for the sewer.

Mr. Thomas: I think the two estimates were very close to each other when you consider .. once you backed out the \$76,000 erroneous fee that was put in there. If you back that out, the two estimates were actually very close to each other.

Chairman Tozer: Where I was going with this is obviously it sounds like there was no compromise. It really doesn't matter who said what. We had requested that they look at compromising. I think we can now say there is no compromise. Would the Commission agree with that?

Mr. Moyer: I would like for us to hear a representative from each party say whether there was compromise or not.

Chairman Tozer: Want to have a vote on that?

Mr. Moyer: I really don't care. Okay, I'll make a motion that we allow both parties to give us a summary of any compromises that have occurred since our last meeting.

Mr. Ramey: I'll second.

Chairman Tozer: All in favor? Aye's have it. Should we limit time? Five minutes? We'll hear from both sides. State your name for the record and you have five minutes.

Mr. Tony Cannon: Mr. Chairman my name is Tony Cannon and I'm the Assistant General Manager of Greenville Utilities. We have had two meetings with the developer per your instructions at the August 21st meeting. We presented our alternate design and there was no compromise reached at those meetings. I'll be glad to answer questions that you have. That was your direct question, was there a compromise and the answer is no.

Mr. Baker: Did either side, give or take, in the proposals from each side or did each one just hold their own line as they did at the beginning of the meeting last month?

Mr. Cannon: Mr. Baker we believe that this is within the ordinance that public sewer is feasible to be extended to this piece of property. We think it's in the public's best interest for public sewer to be extended to this property. The developers have held fast in their desire to develop this property with septic tanks.

Chairman Tozer: Any more questions?

Mr. Ramey: I want to ask you one.

Mr. Cannon: Yes sir.

Mr. Ramey: Did you have any discussion at all, they just said "no we don't want to do it."

Mr. Cannon: No sir. We had discussion. We presented to them after the September 5th meeting, we presented our alternate design to them. Later that day they gave us their design with their cost estimate for what they anticipated the cost of the internal sewer layout to be but we didn't reach a compromise. We had several discussions as a matter of fact.

Chairman Tozer: Any more questions? Thank you Mr. Cannon.

Mr. Cannon: Thank you.

Chairman Tozer: Somebody like to represent Porter's Grove, LLC, please state your name for the record and you have five minutes.

Mr. Jim Hopf: Thank you Mr. Chairman. My name is Jim Hopf. I'm an Attorney here in Greenville with the firm of Hopf & Higley. I'm here on behalf of Porter's Grove, LLC. I agree essentially with what Mr. Cannon said. We did meet on two different occasions and frankly from my perspective anyway I don't think this is a situation where anybody is refusing to act. I think, honestly, it's a matter of interpretation and a difference of opinion. We believe as the developer that we sought information that we then relied on and that information or situation has changed for the good or for the bad depending on which side of the coin you're looking at. It puts my client in a very difficult position. In a position that this is just not feasible for them to go forward. We've submitted the information, we hope that you have looked at it. There's information in there to support our position we believe. Again, we did attempt, we talked numbers, we talked proposals, we discussed various avenues and places that the line could run, ways to approach the property from the street, from the rear. What it would do alternatively as far as cutting swathes through the woods out there, the wetlands impact, what have you. There was discussion and again I don't think honestly from either side it's a refusal to concede or do anything. I think it's an interpretation, it's a difference of an opinion. It just leaves my client in a position that it's not feasible to go forward and we would ask for your consideration along those lines.

Chairman Tozer: Any questions? Thank you. This is an unusual situation Commission members and I think at this point I'd like to talk a little about how we go from where we're at to where we need to go. If we do make a motion the motion needs to clearly state the reason for the unfeasibility of the project then the motion so we know clearly what the position is on the unfeasible and then we need to know if your position is feasible that would also come into play. Now, I'd like to open up the Commission for some discussion. I'd like to hear from everybody who's interested in giving their input so we can put this altogether and see if we can put it to bed. Counsel.

Mr. Holec: I just wanted to remind everybody what your focus is. Again, on this is whether or not to accept the documentation of the applicant, whether the service by, sanitary sewer service by Greenville Utilities services are feasible. That's the issue. Again, this is an ordinance which City Council has adopted and it says the standard is that all lots are to receive sanitary sewer service from the city, from Greenville Utilities service, with the only exception being if it is determined that it is unfeasible and the documentation is accepted by this Board. Again, this is a policy that has been approved by City Council that this is the way that sewer service in our development is to occur. I just wanted to stress that with you that this is something that Council has adopted and it's a policy and it's a law they have in place. I want to point out that Greenville Utilities Commission has said that they are able, that it is feasible to provide sanitary sewer service and they have made the commitment that when the development, internal development, is ready that they will have sanitary sewer service there available to them. As soon as it's ready to receive the service they will have that service available. In fact, the Utilities Commission approved at their recent meeting a budget ordinance to fund that project. That is in place. They have adopted that and City Council at its last meeting on Thursday also approved a budget ordinance in order to do that. That budgeting and funding is in place. Again, they did direct the staff to have that service available at the time it's ready to receive the service. Expense to the

developer as far as its internal system is not a conclusive factor for determining whether or not sanitary sewer service is feasible. That's a cost of development. The actual, the developer has different ways in order to offset that expense either increasing the sales price of the lot or increasing the number of lots. What Greenville Utilities has stated is there is no expense to the developer for the extension beyond the acreage fee and the sewer main fee which any development pays, would have to pay, regardless of whether or not there is an extension required. In other words, if they were able to hook on to a sanitary sewer line that was directly adjacent to it then they would have to pay this sewer main fee and the acreage fee. This development is not having to incur any additional costs because of the fact that there is an extension.

Appropriateness of a septic system is not an issue, it's not a factor. Again, City Council has determined that we have sanitary sewer service by Greenville Utilities Commission so it's not up to this Commission to decide whether or not it's appropriate to have a sanitary sewer system. Finally and I really wanted to stress this cause this is kind of where we focused on at the last meeting. Any expenses that are incurred by the developer as a result of miscommunication or misunderstanding between Greenville Utilities Commission and the developer is not a factor for you to consider. Basically you're to look at the issue which City Council has whether or not this is unfeasible. If the developer believes that he has wrongly incurred any expenses because of that miscommunication or that misunderstanding then what his remedy is to the court system. This Commission is not to fashion a remedy in order to address that. What you're issue is whether or not it accepts documentation that sanitary sewer service by Greenville Utilities Commission is unfeasible.

Chairman Tozer: But I've got a question. Let's back it up now. A lot of this activity with the Utilities Commission took after this plan was drawn, engineered, and moved in the process of being approved. Correct?

Mr. Holec: Correct.

Chairman Tozer: Mr. Cahoon has indicated that he did in fact tell them they really were sure they were going to go down that road. All this stuff you're talking about took place after their plan drawings, so there is an unfeasible issue that something when so far down the road before the flags started coming up.

Mr. Holec: That's not the issue before you all. The issue before you is whether or not, again, the way the ordinance states, is whether, the only exception is when there is unfeasibility of sanitary sewer service by Greenville Utilities. That's the issue before you.

Chairman Tozer: Well, that's my point, it really wasn't there sounds like till after the fact.

Mr. Holec: Again, I think this is something that you had heard previously is this is part of the normal design development process. They come in with a project, they confer with Greenville Utilities Commission and then the plans are made in order to determine whether or not to bring the line is brought to them in order to provide them the service. That's the usual process for the development that's not the process that happened in this instance. At this time when you all are

considering this issue and the documentation that is before you is that Greenville Utilities Commission is ready to provide the service, has a fully funded project and when the internal development is ready to receive this service they will have the service there.

Mr. Ramey: Mr. Holec.

Chairman Tozer: But at the same time, if I'm not mistaken, excuse me Bob.

Mr. Ramey: I read in your report and I want to be sure. The City Council passed an ordinance that says the ETJ you must have sewage.

Mr. Holec: Correct. What, this is part of your Subdivision Regulations. The regulations require that all developments both within the city and within the extraterritorial area, jurisdictional area, are to receive sanitary sewer service from Greenville Utilities Commission. Only exception to that is when there is unfeasibility of sanitary sewer service by Greenville Utilities Commission is documented and accepted by the Planning and Zoning Commission. That is the rule, the general rule is "yes we're to have that service." When they're making these rules they're looking at what is the best for having the development of the city and its area nearby because we know that is potentially going to be annexed into the city. We do not want to have the potential expense of retrofitting that also would be required when that comes down.

Chairman Tozer: But we could not annex it. Right? We don't have to annex it.

Mr. Holec: In order to receive the service it's going to be required to be annexed in. Annexation is a potential, yes.

Chairman Tozer: I mean, if it went through with the septic tank proposal, just say it did hypothetical, then the city would have the option of annexing that piece of land right? If it's going to cost a lot of money to do the sewer they just wouldn't annex.

Mr. Holec: Anytime you have a developed area nearby the city they have the benefits of being close to the city and receive all the services that the city have and the benefits. The appropriate development course and growth for the city is to have those areas that are developed for urban purposes to be annexed into the city. Is not required to be annexed but that is the model.

Mr. Gordon: Are there any areas in the extraterritorial jurisdiction now that have septic tanks?

Mr. Holec: My understanding is there are.

Mr. Gordon: There are a lot of them. This very well, this is fallen into a catch 22 situation. It got here because of some miscommunication or some bad timing. This could very easily be a piece of property that's in the extraterritorial jurisdiction that has septic tanks. It just hasn't occurred yet.

Mr. Holec: It's possible but again what you're charge under the regulations is that it is to have, receive sanitary sewer from Greenville Utilities Commission. It's not your charge to decide what's appropriate as to what areas are to have septic systems and what is not. City Council has made that policy decision, our elected representatives have made that policy decision and that's appropriate for them to make that. They've made that in the form of a law. Your charge is to look at the documentation as to whether or not it's been shown that it's unfeasible for sanitary sewer service by Greenville Utilities Commission.

Chairman Tozer: Do you have a copy of that where it says the sewer system, I remember seeing it last month. I don't recall see that portion of..

Mr. Holec: What portion?

Chairman Tozer: Where it says the unfeasibility has to be directly related to the sewer system. I thought it just said we determine what's unfeasible I thought.

Mr. Holec: What I'm saying is unfeasible is the service by Greenville Utilities Commission. If you take a look at my Memo. The 9-5-127 "(a) each lot intended for a use requiring sanitary sewage shall be served by Greenville Utilities Commission and approved by the State of North Carolina except for unfeasibility is documented and such documentation is accepted by the Planning and Zoning Commission. So that's unfeasibility of service by the Greenville Utilities Commission." In your next sentence "(b) where the Planning and Zoning Commission has accepted the unfeasibility of service by a public system." It's unfeasibility of service by Greenville Utilities Commission.

Chairman Tozer: Which we can determine.

Mr. Holec: Yea, that's up. You are charged with making the determination as to whether or not it's unfeasible. There's documentation provided to you to support feasibility of service by Greenville Utilities Commission. My Memo to you is to give you guidance as to appropriate factors.

Mr. Stokes: Question. When you're talking about unfeasibility you're talking about mainly of the system not necessarily the monetary?

Mr. Holec: I think that's the main charge. I don't think you can completely discount monetary but again, the internal cost of this subdivision and the system that's not a conclusive factor. If you had that, having more expense for the system is not determinative of whether it is unfeasible. If you had that provision then you would be having subdivisions coming before you often and saying it's expensive for us to build our internal sanitary sewer system and so we want to have septic system regardless of where they're located. That's why the internal cost is not the determining factor.

Chairman Tozer: I think what's happened here is this has kind of got, I don't think this is going

to happen again. I think this will end all this slipping through the cracks quite obviously with all the publicity and everything that went into this issue. The issue is still where this project was prior to the utilities commitment to it.

Mr. Holec: I disagree with that.

Chairman Tozer: That's us.

Mr. Holec: I disagree. I think the issue before you is the documentation that you have as to whether or not the provision of sanitary sewer by Greenville Utilities Commission is unfeasible and you look it at this moment.

Mr. Gordon: I think it's the timing. I think it's the timing.

Chairman Tozer: Any more questions? Thank you Mr. Holec.

Mr. Bell: The only comments I have is that as I read through this that the city does have the ordinance and it's a requirement of the city. Both Greenville and Greenville Utilities have indicated there is a need for public sewer system rather than a septic tank. I actually concur with that.

Mr. Holec: I've just been approached by Mr. Hopf. He's asked that he be given an opportunity to speak. He felt my comments were a little bit beyond giving you advice. If you give him an opportunity to speak then again you're going to have to also allow Mr. Dixon the opportunity also. He has asked for an opportunity to address you all, again, he believes I went a little further than giving you guidance. Again, it's your call.

Mr. Ramey: Let's let him speak to us.

Several members agreed.

Chairman Tozer: We agree that Mr. Dixon appropriate time. We're going to limit it to five minutes.

Mr. Ramey: Five minutes each.

Chairman Tozer: Mr. Hopf.

Mr. Hopf: Thank you Mr. Chairman and thank you Mr. Holec for listening to my request. I do think that went beyond. I understand that you're trying to limit things here tonight and I'm not going to take a lot of time but I do think that went beyond, went into argument. We have submitted as I indicated before a lot of materials both under a cover letter from my office and a cover letter from Rivers and Associates. Some of those materials speak directly to some of the issues. GUC has said, has made a promise that they're going to have a line there when needed.

The question is when is that going to be. We have information that we submitted that will be as much as 17 months or more from where we are today. If the developer wants to go forward with the project and they're ready in 6 months the question then is what is going to be done then. What are they going to say at that point when we say we're ready we want to hook on and the state. First of all they're not going to let us do anything because they've already said they're not going to permit a dry system so we can't pump and haul. We can't do anything. In the realities of development is you don't go and put in improvements and you don't begin a project and you can't sale and market properties when you don't have a reasonable way to handle the waste water coming off of those properties. To say we'll have it there when you need it, it's easy to say but I think collectively we all know and certainly these guys out there doing it everyday know how long these projects take. It's easy to say it on paper but it's different when you get out into the field. We have information that will support from other engineers. We have information from DNR and the Division of Water Quality about what they will and will not permit when. We have information from the Army Corps of Engineers, with discussions we've had there. We have information from Avolis Engineering, an independent engineering firm out of New Bern, that talks about the time frame and says 17 months to get this done is not unreasonable. Whereas, if they were to do internal sewer they could have it done, the developer, by next spring, early next spring then they're going to sit and wait until the outfall comes. It is a timing issue and it's unfortunate that this all happened. Again, we go back to the representations that were made in December that they acted on. The other thing I'll say real quickly is I think economics and finances is a part of feasibility and I don't think when you look at the statute or the ordinance that is just unfeasibility for GUC to put this in. It says "based on unfeasibility" the whole totality. Mr. Holec in his Memo pointed you to some dictionary definitions of unfeasibility and talked about the plain ordinary use of the language. I submit to you that's exactly what should be done. We should look at unfeasibility for the totality of the circumstances here not just can GUC physically put in a line but is it practical, can it be done by everybody. GUC is driven by financial consideration every day. It's been pointed out that in 1985 Rivers and Associates came up with a plan for this outfall. GUC hasn't acted on that for 20 years, why, because it hasn't been feasible. It hasn't been economically pertinent for them to do it. Economics drives these developers. All the developers in the county. That has to be looked at in terms of feasibility. We want to be feed out of the same spoon as GUC. Fairness dictates that. Again, we ask you to consider all the materials we submitted. This is an unusual situation, it's unfortunate perhaps but it is what it is and my clients are having to suffer with it. We believe it's unfeasible to move forward. Thank you.

Chairman Tozer: Any questions. Thank you Mr. Hopf. Mr. Dixon.

Mr. Phil Dixon: Gentleman we can have a temporary pre-fab pump station in less than 2 months. If you include the permit that might take as much as 6 months. There's no question we can provide sewer to this project. Here the property owners, consultant engineer contacted city Planning staff in May of 2007 asking whether sewer would be required for this particular project. As I pointed out to you last time, all the developers know this, Section 2 of the Manual for Design and Construction for Water and Wastewater System Extensions requires the developer and engineer to consultant with GUC during the conceptual phase of a project to determine the

feasibility to providing sewer. Now here that was not requested by the developer and the engineer with GUC. Instead the developer visited us in December of '06 and in a very casual conversation regarding the availability in this area and it was in the general area, it was a very general inquiry, no specific property was mentioned. Sewer is a very dynamic thing. You can't say at any given time whether you're going to have sewer at a particular location or not because it's driven by what happens in that area. In March we have now, as of March, three or four projects that appear to be taking place in this area. What Greenville Utilities Commission has done is they've said we can provide sewer. We've adopted a budget. We've even had a second motion by Greenville Utilities Commission Commissioner's members to say you are to provide sewer to these folks when they need it. I'm telling you we can do that. We've got a budget for it. In fact we've got most of the money we need for it already with other projects and on top of those projects we have another development that might take place. It is simply bad policy, bad policy for you to allow this property to development with septic tanks. The retrofit is going to occur. This property will be annexed. It will be annexed in a very short period of time and when it's annexed we're required to provide sewer. Those retrofit costs last time Cliff was hesitate to say it was going to be twice the cost. I can tell you now it's going to be more than twice the cost to retrofit. Remember with your approval of the variance that allowed just one road into this property, tell me what's going to happen when we tear the roads up and we start putting in sewer out there. You be the property owner, you explain to the property owner who buys a house out there or buys a lot out there and wants to develop it, you explain to that person why after a short period of time after they bought and built a house they're going to spend all this money for retrofit, all the fees associated with it, the traffic congestion, the inconvenience and the tearing up of the streets. It's just insane to do that. It's a very clear rule. The rule is very emphatic, you shall have sanitary sewer. If you're not going to have sanitary sewer it has to be the most unusual, bizarre, strange set of circumstances that are presented where it is shown that we don't find it feasible. We have been delegated by charter with the responsibility of handling sewer for this city. When it comes to make the decision on feasibility or unfeasibility of sewer you should defer to the Greenville Utilities Commission and you should defer to your City Council who also approved that same budget and who has said to you please don't make our citizens (1) have to go back and pay a retrofit as a homeowner (2) don't make our rate payers pay the cost the developer should have paid at the outset. This map that you see in yellow, all the things you see in yellow, and there are a lot of them you can see, these are lots with septic systems that have been repaired or replaced or have a repair permit that's issued but not yet acted upon. I want you to see the kind of problems you have with septic tanks. I also want you to read materials that were submitted by your own, by the developer here. In these materials when they're looking, their own people are looking, Alvois Engineering, PA says "when analyzed on a per lot unit cost basis, the total sewer costs for on-site sewer improvements yields a unit price of approximately \$6,086 per lot." This is their submittal to you. That is consistent with all the property that's been developed by this particular developer, three different subdivisions. Any questions?

Mr. Baker: There seems to be 11 months difference, they were coming up with 17 months.

Mr. Dixon: That's wrong. I've said it emphatically publicly on the record that we can have a temporary pump station, pre-fab, out there in 2 months and the permitting is the only thing that

would delay us and we say that could take as much as 6 months but no more. We're not going to delay them in any respect and we don't have to pump and haul to do it. We can do it with a temporary pump station. We've already got \$400,000 budgeted for that. Because you know what we know there are at least three developers that are going to provide us substantially all the money we need to do this outfall and there's a fourth one that's likely. That's the tip of the iceberg because you know and I know that as soon as we run that outfall there's going to be substantial development out there.

Mr. Baker: Of course, this meeting is actually public knowledge and everything, we have minutes and everything on it so if they come back and it falls within 17 months they would have legal ramifications they could come back.

Mr. Dixon: They have it now if they think we misrepresented any facts to them but we haven't. You know you can't expect a general inquiry to hold such a high standard. It's very clear these developers know that they're suppose to come to us for specific projects and they didn't. Let me tell you it's real clear here there's never been any interest on their part in developing this with sewer. They've always wanted to develop it with septic tanks. When we left the meeting last time, after you said let's meet and see if we can compromise, the first comment to Cliff Cahoon at the elevator was "I don't see any reason for us to meet, there's nothing to talk about." When they had the first meeting as much discussion as you think took place, a very brief meeting cause they said "if you're here to talk to us about anything except septic tanks we're not interested." We called a second meeting, we provided all our documentation, we had a devil of a time getting any documentation from them.

Chairman Tozer: Any more questions? Thank you Mr. Dixon. I think we have enough information to make a decision. Would anybody like to have a discussion? Would anybody like to make a motion?

Mr. Lehman: Mr. Chairman, I'd like to make a motion to accept this project as being feasible and the reason is because the ordinance says so. Demands that sewer be put in the ETJ and within city limits. The second is the retrofit factor for the potential homeowner that it is unfair for him to have to come up with the amount of money necessary to make that retrofit.

Mr. Randall: Second.

Mr. Tozer: I have a motion by Mr. Lehman, seconded by Mr. Randall, that the project is in fact feasible. All in favor? Can I see some hands on that please. Those in favor: Ramey, Moye, Randall, Wilson, Lehman and Stokes. Those in opposition: Gordon and Baker. Motion passes. What me to clarify that?

Mr. Holec: You need one more motion and this motion would then be to act upon the request for the preliminary plat. Based upon your action it would be to a motion to deny approval of the subdivision plat since it does not meet the requirement that each lot is to be served with sanitary sewer service by Greenville Utilities Commission.

Chairman Tozer: Could I get a motion please.

Mr. Lehman: I move that as stated by Mr. Holec.

Mr. Moye: Second.

Chairman Tozer: Motion by Mr. Lehman, seconded by Mr. Moye. All in favor? Those in favor: Ramey, Moye, Randall, Wilson, Lehman and Stokes. Opposed? Those in opposition: Gordon and Baker. Motion passes.

REQUEST BY RANDY COLEY DBA EAST COAST SALES – APPROVED

Chairman Tozer stated that the next item of business is a request by Randy Coley, DBA East Coast Sales. Randy Coley dba East Coast Sales, to rezone 0.99 acres located between North Memorial Drive and Seaboard Coastline Railroad, south of North Greene Street, and 2,050± feet north of West Belvoir Road from IU (Unoffensive Industry) to CH (Heavy Commercial).

Ms. Chantae Gooby delineated the area on the map. Ms. Gooby stated that this request is to rezone property from Unoffensive Industry to Heavy Commercial. The property is located in the northern section of the city and contains 0.99 acres. It is located north of the Tar River and across the street from Ron Ayers Motor Sports. Ms. Gooby presented a photograph of the property. The property is the former site of Carolina Model Homes. There is commercial zoning to the south and west of this property. The property is impacted by the 500-year floodplain. There is a neighborhood focus area at the location of this property. The request could generate a net increase of 510 trips per day. The Future Land Use Plan Map recommends commercial zoning. Ms. Gooby stated that the request is in compliance with Horizons: Greenville's Community Plan and the Future Land Use Plan Map.

No one spoke in favor or against the request.

Motion was made by Mr. Ramey, seconded by Mr. Gordon, to recommend approval of the proposed amendment, to advise that it is consistent with the comprehensive plan and other applicable plans, and to adopt the staff report which addresses plan consistency and other matters. Motion carried unanimously.

REQUEST BY KMRT PROPERTIES, LLC - APPROVED

REQUEST BY REGGIE SPAIN CONSTRUCTION, LLC - APPROVED

Chairman Tozer stated that the next items are requests by KMRT Properties, LLC to rezone 25.892 acres located 850± feet northeast of NC Highway 43, adjacent to Oak Hill Farm and Oak Hill East Subdivisions, and 120± feet south of Herman Garris Road from RR (Rural Residential – County's Jurisdiction) to R9S (Residential – Single-family [Medium Density Residential]) and a request by Reggie Spain Construction, LLC to rezone 43.582 acres located along the eastern

right-of-way of NC Highway 43, adjacent to Oak Hill Farm and Oak Hill East Subdivisions, and 600± feet south of Herman Garris Road from RR (Rural Residential County's Jurisdiction) to R6 (Residential [High Density Multi-family]) and R9S (Residential – Single-family [Medium Density Residential]).

Ms. Gooby stated that there will be one presentation for both requests due to the properties being contiguous. Ms. Gooby explained that the Commission will vote separately on each request. These properties are located outside the city's ETJ and are in conjunction with voluntary annexation requests. The properties are located in the southeast quadrant of the city. Ms. Gooby identified the two requests on a map. Ms. Gooby stated that Tract 1 of the Reggie Spain Construction, LLC request is for R6 (multi-family) and the remaining tracts request R9S (single-family). Ms. Gooby indicated on the KMRT Properties, LLC survey that the two tracts are adjacent to terminal subdivisions and there will be no interconnectivity to the subdivisions to the rear. Ms. Gooby presented the Reggie Spain Construction, LLC survey illustrating that both requests are contiguous. Ms. Gooby presented photographs of the properties. Ms. Gooby stated that the properties rear property lines are somewhat impacted by the floodplain and floodway associated with Hardee Creek. There is an intermediate focus area to the south at the intersection of Tull Road and NC Highway 43. There would be a net increase of 210 trips per day associated with the KMRT Properties, LLC request and a net increase of 1,500 trips per day associated with the Reggie Spain Construction, LLC request. The Future Land Use Plan Map recommends Office/Institutional/Multi-family along NC Highway 43 and transitions into Medium Density Residential to the interior areas. The requested R6 for Tract 1 is considered High Density Residential and the requested R9S for the remaining tracts is considered Medium Density Residential. Ms. Gooby explained that all properties are currently within the County's jurisdiction and zoned Rural-Residential. Ms. Gooby presented a comparison of the number of developable units under the county's jurisdiction and the number of developable units under the requested zoning in the city's jurisdiction. Ms. Gooby stated that in staff's opinion the requests are in compliance with Horizons: Greenville's Community Plan and the Future Land Use Plan Map.

Mr. Mike Baldwin, Baldwin and Associates, representing both applicants, spoke on behalf of the requests. Mr. Baldwin advised that Reggie Spain Construction, LLC and KMRT Properties, LLC are one in the same. Mr. Baldwin explained that Mr. Spain has requested sewer extension from GUC for this property. Mr. Baldwin explained that it is their intention not to have high yield multi-family at the front of the property. Mr. Baldwin stated there will be a means for interconnectivity to the adjoining properties.

Ms. Wendy Davis, resident of Oak Hill East, stated she believes there is a difference between development and over-development and feels this request will create over-development. Ms. Davis explained that she believes the development will have an environmental impact on the surrounding area, noise pollution, loss of trees and animals, and wetlands. Ms. Davis disagrees with the traffic pattern as stated. Ms. Davis stated that currently there is an increase in traffic to the point that residents have problems getting on NC Highway 43. Ms. Davis asked that the request be denied for the reasons stated.

Chairman Tozer advised Ms. Davis that when the property is annexed into the city sidewalks will be provided. Chairman Tozer advised Ms. Davis of the requirements and regulations for stormwater run-off.

Ms. Davis reiterated her concerns and feels the development will impact the environment.

Mr. Baldwin rebutted by stating that wetland studies have been conducted on this property. Mr. Baldwin stated that the wetlands and floodway will buffer the adjoining properties.

No one spoke in opposition to rebuttal.

KMRT Properties, LLC Request

Motion was made by Mr. Baker, seconded by Mr. Ramey, to recommend approval of the proposed amendment, to advise that it is consistent with the comprehensive plan and other applicable plans, and to adopt the staff report which addresses plan consistency and other matters. Motion carried unanimously.

Reggie Spain Construction, LLC Request

Motion was made by Mr. Gordon, seconded by Mr. Ramey, to recommend approval of the proposed amendment, to advise that it is consistent with the comprehensive plan and other applicable plans, and to adopt the staff report which addresses plan consistency and other matters. Motion carried unanimously.

REQUEST BY JARVIS MEMORIAL UNITED METHODIST CHURCH AND CITY OF GREENVILLE – APPROVED

Chairman Tozer stated that the next item is a request by Jarvis Memorial United Methodist Church and the City of Greenville for a preliminary plat entitled “Dickinson Avenue”. This development is the closure of Sixth Street and the extension of Dickinson Avenue to Evans Street. The development is located south of Jarvis United Methodist Church and City of Greenville property.

Mr. Andy Thomas stated this is a preliminary plat for the Dickinson Avenue relocation. The site is located south of Jarvis United Methodist Church and north of Sheppard Memorial Library. The property is zoned Downtown Commercial. The anticipated use is the Public street relocation and recombination of property as a result of the closure of portions of Dickinson Avenue, Washington Street and West 6th Street. There are five lots and/or recombination parcels. This property is not impacted by the floodplain. The property is located on a thoroughfare. The Greenville City Council adopted an ordinance to closed portions of Dickinson Avenue, Washington Street and West 6th Street on August 6, 2007. Dickinson Avenue is proposed for extension from its terminus at Reade Circle to a point of intersection with Evans Street immediately north of Sheppard Memorial Library. Adjacent property will be recombined.

Sidewalks are provided on both sides of the proposed street.

Mr. Will Hillard, East Group, stated he would answer any questions.

No one spoke in opposition.

Motion was made by Mr. Ramey, seconded by Mr. Randall, to approve the request. Motion carried unanimously.

REQUEST BY NESA P. WORTHINGTON - APPROVED

Chairman Tozer stated that the last item is a request by Nesa P. Worthington for a preliminary plat entitled "Nesa P. Worthington Property (revised)". The property is located south of Greenville Boulevard and between Koinonia Christian Center and the Oakdale subdivision. The proposed development consists of 4 lots on 27.08 acres.

Mr. Thomas stated this is a revised preliminary plat for Nesa P. Worthington. Mr. Thomas indicated the location of the property on the map. The property is located south of Greenville Boulevard and between Koinonia Christian Center and Oakdale Subdivision. The property is zoned Residential-Agricultural. The anticipated use is residential development under the current zoning or office/residential under future zoning per comprehensive plan recommendation. There are four lots. This property is not impacted by the floodplain and is located on a major thoroughfare. Lot1, Section 1, Phase 1 contains an existing church. Street and utility improvements were approved in future phases. The original preliminary plat was approved in December 2002. This revised preliminary plat will create lot 5, which is also located in Section 1. The streets and utilities are located in Section 2. This plat has a sufficient interconnected street system. Other than the standard driveway regulations there is no restriction on access to Greenville Boulevard (labeled as US 264 By-pass) or Holiday Court. NC DOT driveway permits are also required if future access is proposed on to Greenville Boulevard. Sidewalks are provided. The City's Subdivision Review Committee has reviewed the plat and the preliminary meets all technical requirements.

Mr. Mike Baldwin, representing the applicant, spoke on behalf of the request. Mr. Baldwin stated that the church is growing and the church will be acquiring Lot 5 in order to expand.

No one spoke in opposition.

There being no further business, motion was made by Mr. Ramey, seconded by Mr. Lehman to adjourn at 8 PM.

Respectfully submitted,

Merrill Flood
Secretary