

**TOWN OF HUNTERSVILLE
REGULAR TOWN BOARD MEETING
MINUTES**

**October 3, 2011
6:30 p.m. – Town Hall**

The Regular Meeting of the Huntersville Board of Commissioners was held at the Huntersville Town Hall at 6:30 p.m. on October 3, 2011.

GOVERNING BODY MEMBERS PRESENT: Mayor Jill Swain; Commissioners Danae Caulfield, Charles Jeter, Ron Julian, and Sarah McAulay.

Mayor Swain called for a moment of silence.

Boy Scout Troop 19 led the Pledge of Allegiance.

MAYOR AND COMMISSIONER REPORTS/STAFF QUESTIONS

Mayor Swain

- We had an MTC meeting last Wednesday night. We also had the Red Line Task Force meeting and that has been the task force that's really working hard to continue to proceed with the Red Line. We had a presentation from Paul Morris. Our elected officials and candidates will have an opportunity to learn more about what Mr. Morris is presenting and to hear the beginnings of his report on October 27.
- No report from the EDC Management Team or the ASC Board.
- The next Huntersville Connection meeting will be the third Tuesday of this month at the Renaissance Festival.

Commissioner Caulfield – No Report

Commissioner Jeter – No Report

Commissioner Julian

- The next EDC meeting is October 20. The Economic Development Corporation is still receiving many leads and things are going well. ABB continues to progress and hopefully more and more jobs are coming to this area.
- The next Chamber meeting is November 28. The Chamber will host a candidate forum in Cornelius tomorrow and in Huntersville next Thursday.

Commissioner McAulay

- The MPO met on September 21 and endorsed the concept of Option 3 for the NW Huntersville Transportation Study. An additional vote will be taken in November.
- The Visit Lake Norman Board met on September 26. You have probably received the e-mail on that. I do want to point out to you that at the conference they did receive four awards for excellence and achievement.
- The next meeting of the Planning Coordinating Committee is going to be in October in Mint Hill.

PUBLIC COMMENTS, REQUESTS, OR PRESENTATIONS

Sam James, 13415 Hiawasse Road, said I want to speak in favor of the text amendment as voted on unanimously by the Planning Board last week. What they did was they took away the setback requirement that existed. They replaced it with a dispersion model which means that anybody who comes in to apply for a crematorium has to show the environmental affect that is around it instead of having an arbitrary number of 100' or 200' or 300' setback, everybody has to come in and show exactly what affect that their crematorium will have on the environment. I speak in favor of the new text amendment as proposed.

AGENDA CHANGES

Commissioner Caulfield made a motion to add Item D under Other Business – Consider adopting Right-of-way Abandonment Policy, including associated fee and add Item D under Consent Agenda – Call a public hearing for Monday, November 7, 2011 at 6:30 p.m. at Huntersville Town Hall on Petition #S11-02, a request by Glenwood Development Co., LLC to revise the Special Sign District Overlay for the Shoppes at Birkdale Crossing shopping center. Commissioner McAulay seconded motion. Motion carried unanimously.

Commissioner McAulay made a motion to adopt the agenda, as revised. Commissioner Julian seconded motion. Motion carried unanimously.

PUBLIC HEARINGS

Petition #TA10-04. Mayor Swain called to order public hearing on Petition #TA10-04, a request by Planning Staff to amend Article 9.54, Article 3 and Article 12 of the Huntersville Zoning Ordinance text in order to allow all commercial rooftop solar energy facilities to be defined as minor facilities and permit them by right in any zoning district.

Mayor Swain recognized Planning Board members present: Jeff Neely, Hal Bankirer, Robert Cameron and Joanne Miller.

Staff Report attached hereto as Attachment No. 1.

Lisa McCarter, Planner, said back in April of last year we adopted language into our ordinance for solar facilities and the current ordinance requires any non-residential facility to get a Special Use Permit. We've since had two inquiries – one for a large industry-type rooftop facility and another for just a small store facility. We have examples here. We have Dr. Webb which went in before the ordinance language, so he didn't have a special use permit requirement, but now he would. And that's the back of his office there. We think that the time period, 2-1/2 months for a special use permit and the uncertainty of the decision, might be a disincentive to people who want to install the solar panels on their roofs. The first thing that we are proposing to do is make any non-residential rooftop facility minor. And then secondly to separate out and say that minor freestanding would still require a special use permit, but that minor rooftop solar facilities on non-residential property would be permitted by right in any zoning district. The freestanding would still require a special use permit although if you do want to make that permitted by right, we could work out language to do that, too. We would support that. The other change is that it just separates out the wind facility definition because now you have the rooftop language in the solar and additional language stating that the approval of all state, federal and

electric companies is required. We have Craig Norfolk here tonight. If you have any questions of him, he worked with one of the people asking questions about the large rooftop installation.

Commissioner Jeter said we approved this language this calendar year, is that correct.

Ms. McCarter said it was 2010.

Commissioner Jeter said so last year. If I remember correctly, it actually went back and had to come back to us at a third meeting because of some questions at that time. So, it was a well vetted process. Part of that process was making these things specifically special use permit. It now appears that we've had two interested parties who want it, but they are not willing to go through the 2-1/2 month process of getting a special use permit, so we want to change the rules to benefit them. My concern, other than what I just said, is we are now going to say if this passes that if you are a residential property, which is the vast majority of buildings in our community usually owned by a private individual which means they don't have as much income as a corporation might, they have to go through the 2-1/2 months special use permit and they have to go through the processing and the fee and the permitting. But if you are a company, you don't.

Ms. McCarter said the residential was a little more complicated because the state statutes dictate that you have to allow certain things by right as far as rooftop slopes. So on the front facade, it's going to require a special use permit and on the front roof slope a special use permit. But if you put them on the side and rear roof slopes or the side and rear yard, then it's permitted by right.

Commissioner Jeter said we knew that when we first wrote this language in 2010, correct.

Ms. McCarter said yes.

Commissioner Jeter said so that's not new information and as you can see we went through detailed iterations when we approved this. I just don't see how 2-1/2 months is egregious for a corporation for something that was decided upon this Board not 12 months ago.

Commissioner Caulfield said just following up on that thought, is part of the concern is that as these buildings are being built that the owner of the building doesn't know what type of energy they are going to use and so if they waited two months, three months, into their building process that then they would have to wait another 2-1/2 months to get this approval or would this be done like right up front when they started all their permits and approvals. Could they add this on after?

Ms. McCarter said as long as the roof would support it, they can do it at a later date or they can do it at the time they build, but our thinking is we want to facilitate these solar rooftop installations and anything we can do to facilitate them since a greater number amount of energy is required by the electric companies.

Jack Simoneau, Planning Director, said I just want to follow-up on that. In the case of Dr. Webb, when he walked in the door to get his permits he knew he wanted the solar panels up there, so that would have delayed him about a 2-1/2 month process in that particular case. But the two inquiries that we had received were already existing permitted sites, so they would not have gotten speeded up by anything by this text amendment.

Commissioner Caulfield said but he would have been held up 2-1/2 more months.

Mr. Simoneau said yes, before he could submit for the commercial plans. I presume and I'm not sure if he could submit to Building Standards his building without the solar rooftop. I can't say for certain whether there was mechanical work inside that he needed permits for. The reason he put those in there was to have that for offsetting utilities, so it's probably likely he would have been delayed on his case because it was new construction, but again the two inquiries we had received were existing permitted sites.

Commissioner Caulfield said what are the limitations as far.....can they just put it anywhere. What are the limitations as to where they can put it on their roof?

Ms. McCarter said the way we would have it written would be they could put it anywhere on the roof, but if you wanted to add a provision like if it showed from the street or if it was on the front slope or something. A lot of the roofs are flat, but it would just be how you want it.

Commissioner Jeter said going to Commissioner Caulfield's point, there may be merit in marrying the two provisions. As you said, the residential allows by right on the back slope. Dr. Webb's building is a prime example where the back slope of that makes sense. But if it's not on the back slope or it doesn't meet the state statute of by right in residential, they probably should get a special use permit just like we would require a residential. That would be my preference. I would argue, going to Commissioner Caulfield's question, that a smaller facility like Dr. Webb's is going to have a sloped roof. A larger facility like ABB, a 2-1/2 month special use permit through all the permitting and all the requirements that they did, I would challenge anyone to say that it would actually hold up their process of getting it done when we spent more than that deciding whether or not they could build a 430' tower.

Mayor Swain said I think it could hold them up. Even the lighting discussion that we had.....it could have held them up.

Commissioner Jeter said no, I disagree. Let me tell you why the lighting couldn't have held them up. They came into town, we bent over backwards as we should have because they are providing jobs, we let them build a 430' tower up there.

Mayor Swain said but we had voted on that before construction even happened.

Commissioner Jeter said which my guess is any construction company at that level that's going to put roofing to create energy, you and I both know they had conversations with Craig Norfolk and Electricities at the very beginning long before they started building. The lighting issue is a separate issue. They got in there and based on reactionary reasons decided the lighting was not appropriate. It was an after the fact issue. For a company like ABB you and I both know, you know better than I do, they are going to sit down with whoever their energy partner is at the very beginning.

Mayor Swain said in every instance I don't know that there's always a definitive.

Commissioner Jeter said there's exceptions to every rule. My only point is are you going to allow or are we going to allow a dentist office to put roofing on the front of their building by right which could be next door to your house depending upon where you live and we wouldn't let you do it next door to it. And I think that's inherently wrong.

Commissioner Julian said I think the aesthetics part of it is going to need a little tweaking here, because you are right, a commercial building as Dr. Webb's we would not want or allow solar panels to be on the front of the building. ABB, their roof I assume is flat. I have no problem with the commercial building putting solar panels on top of their building, as long as they cannot be viewed 360 degrees around standing at something. I think the aesthetics part of it is where I'm leaning to. As far as residential, I think residential and commercial should be separated. Freestanding in residential definitely needs a special use permit. I agree with that. The only thing I want to make sure that our commercial application of solar panels have some shielding from view.

Craig Norfolk, Electricities, said all I wanted to do was simply explain the process and in the case of the orthodontic office we were talking to their consulting engineer sometime before. We are more on the operational side. We didn't get that feedback that maybe the town got because we were working with them to just get the project completed. We have a customer in Northstone that requested solar panels and we worked with them. ABB is looking at a 200kw rooftop project. Their senior management has not decided yet, but I think they are going to approve it. With us it's a standard offer up to 200kw. If you look at ABB, probably 2/3 of their roof would have solar panels. They are going to be using it internally. We are going to give them a credit for that. We've been working with them as well so I guess the feedback is coming from people that are talking to the town. We do not have as aggressive a solar program as Duke has and possibly Energy United, so there may be some feedback from them as well. We are working on three projects and I guess they are giving some feedback to the town on that. We are just working with them operationally to get it done.

Greg Ferguson, Town Manager, said this is an area that we probably need to review once a year because this application is changing so rapidly. There are already free-standing parking structures like you would go to Rally's or one of those burger joints that have solar applications on top of them and you really can't see it. You really think it's just a parking structure. And this industry is evolving so quickly that as the film becomes thinner that the structures you used to have to place on top of a roof have diminished in size so the future application really will just lay flat on top of the roof and it will be very thin and low weight, so particularly in the case of a roof that's completely shielded on all sides we would encourage you to look at making that by right. There may be some language that could be added about something that's protruding above roof lines or if it is a different type of structure like these awnings that will have solar on top of it, that may continue to be a special use permit, but it's something that we really probably need to keep on the radar because what we do want to do is attract the type of industries that produce that product and from an economic development standpoint we are a region that's being looked at now and in the future so we do want to be seen as being friendly to the technology and being innovative in how it's allowed to be used.

Mr. Norfolk said from that standpoint I would support it. Although we are meeting our renewable and energy efficiency requirements state mandated, they are going to get more aggressive as the years tick by and so I would be in favor of anything we could do to make it easier.

Commissioner Julian said back on the commercial.....from the Board level I would like to see the approval drove down to the staff level. Again, my knowledge level on solar is somewhat limited but giving the aesthetics and the many thoughts that go into it, I have no problem with commercial by right with certain staff caveats in there and so forth.

Commissioner Jeter said going to Mr. Ferguson's point, I agree that ABB and those type of facilities.....absolutely, you want to give them every incentive. I don't have a problem with that whatsoever. My issue is on the smaller facilities that could theoretically be in residential neighborhoods

or right next to them and could have a sloped frontage. If we could work the language to affect those, that's fine. I would disagree with Commissioner Julian, I don't advocate ever passing our power to staff. But I do think the language needs to be changed at least for the larger facilities that have the flat roofs where it's a no-brainer. In those cases, absolutely do it. So Dr. Webb's, if he had put it on the front of that building, you would be driving down Gilead Road and you could see it and it's an eyesore and probably an unnecessary one. Those are the ones I think need to come before the Board for final approval.

Joanne Miller, Planning Board, said I think what Mr. Ferguson had to say, with the newer technology you don't even know there's a solar panel there. It lays flat on the roof and it just looks like the roof. I think maybe you could specify you don't want the big old-fashioned ones or something like that. No one uses those anyway. It costs too much.

Mayor Swain said I just wanted to let everyone know it is actually Dr. Allen now, not Dr. Webb.

Commissioner Caulfield said I agree that I would like to see it tweaked a little bit more so if it's in the front of the building, like our residential language reads, that there would have to be a special use permit, but if it was not visible from the road then it would be by right.

Ms. McCarter said I will go ahead and tell you as a fyi that we did have a request for a large free-standing solar facility down off Neck Road and they might have problems with the 8' height restriction for major solar facilities and they may need to go to something like 12', so I might be coming forward with that. Since it came in after this, it's going to be two separate text amendments.

Commissioner Caulfield said would that not go to the Board of Adjustment for a variance.

Ms. McCarter said I guess it's not really a hardship.

There being no further comments, Mayor Swain closed the public hearing.

OTHER BUSINESS

Petition #TA11-08. Petition #TA11-08 is a request by Raymer-Kepner Funeral Home and Cremation Services to amend Article 3.2.7(a) and Article 9 of the Huntersville Zoning Ordinance text in order to allow on-site crematorium services in the Highway Commercial district as an accessory use to a funeral home or cemetery with special conditions.

Staff Report attached hereto as Attachment No. 2.

Brad Priest, Senior Planner, said the public hearing for this item actually was back on September 6 and a few questions arose at that time. I think Commissioner Caulfield had a question about if a crematorium produced a fewer number of cases per state mandate to obtain an air quality permit, could we require them and review their cases on a case-by-case basis even though they didn't meet the threshold. Another question was about Charlotte – what does Charlotte do with crematoriums. Staff tried to answer that in the packet that you have in a little bit of detail. I just wanted to mention that and if there's any specific questions after the presentation, please let me know and I'll try to provide a little bit more detail. But what I wanted to spend a couple of minutes on really was the Planning Board review. Last week the Planning Board reviewed the application and made a unanimous recommendation, as Mr. James had mentioned, to recommend approval of the application with a change. One of the changes

was they were concerned that maybe pollutants wouldn't be an issue for crematoriums and the cases being emitted, but odor may be and so they specifically put in Condition #2 in order to get a special use permit approved for an accessory use in Highway Commercial, that the proposed use would not endanger the public health and safety, substantially reduce the value of nearby property, nor emit noticeable odors. So that was one change that they wanted to put in. Another one on #6 was a change from a setback requirement to an air quality dispersion model requirement. The discussion with the boardto sum up, there was a concern that an ordinary setback from residential uses or from the property line would not necessarily protect adjacent uses from adverse effects, odor or pollutants, something of that nature. Depending upon the atmospheric conditions, depending upon perhaps the equipment if the facility broke down, the setback would not actually help in that situation. What the Planning Board recommended was that an air quality dispersion model be submitted, an engineered document.....if you want to visualize it, a TIA for air quality, be submitted in order to show that the pollutants or the specific air quality parameters were below detectable limits at the property line based on atmospheric conditions. With that being the case, if a professional engineer submits this document and makes the statement that at the property lines these pollutants or these parameters are below detectable limits it didn't seem like to the Planning Board that the setback was a necessary requirement, so therefore it was stricken in lieu of the air quality dispersion model. That's the update from the Planning Board. Staff is supportive of either application of whether it be by the applicant as it was written or by the Planning Board as amended.

Commissioner McAulay said several times I have heard the word funeral home and cemetery, but in the text where it describes the text change, on my copy I didn't see anything about cemeteries. So my question is, if it's a cemetery without a funeral home adjoining it like we normally have here or like the petitioner has, he just has the funeral home not the cemetery attached to it.....so if it's a freestanding cemetery can they by right have this facility. And I have a concern about that because then therefore every church around could construct one. One could be operated if they decided to get in that business. And there's a freestanding cemetery on Alexanderana Road.

Mr. Priest said no, actually in #1 the requirement would be in the Highway Commercial District that the crematorium would have to be an accessory to a funeral home or cemetery. That would allow them to operate in the Highway Commercial District. If they are by themselves and they are not accessory to a cemetery or funeral home then the only allowance for them would be in the Special Use District, which is more of an industrial district, so that would be the requirement for them.

Jack Simoneau, Planning Director, said I think what you are asking is if there was a cemetery, could a cemetery have a crematorium there and the answer would be yes, they could. If they were in the Highway Commercial District, they could ask for a special use permit. The applicant is actually operating a funeral home, so I presume that their primary concern is to have the text to read that you could have this use only if it's associated with a funeral home. I don't think they would object to the cemetery, but the applicant is here tonight I believe to answer that question. But to answer your question, if it is a standalone cemetery with no building and they are in a Highway Commercial District and this text passes just like it is today, they would have the opportunity to ask for the special use permit for that crematorium.

Commissioner McAulay said I would endorse this if that "or cemetery" was removed. I think that's leaving it wide open.

Commissioner Jeter said two initial questions. Under Public Hearing – Staff Update, the first paragraph, I assume this is what you are referring to when you say this is in response to the question of could you require a facility with less than 533 actions per year to meet state air quality. As I read that paragraph, it does not answer the question. It says that you spoke with Ms. Liu, with from I assume the Mecklenburg County Air Quality, who said that it would not be necessary. But it does not answer the question of whether or not we can or cannot in fact mandate it. So going to the question, can we in fact mandate it.

Mr. Priest said yes, we can mandate it through the rezoning process. We can make them submit whatever the Board would like them to submit. However, the county would not participate in doing that review and monitoring it.

Commissioner Jeter said so it's just not going to be enforced by the county, which is our enforcement arm.

Mr. Priest said correct.

Commissioner Jeter said brilliant. Going to the point, the reality is you can't mandate it unless they have 533 cases per year. Even if you say they have to mandate it, what Mecklenburg County is going to say is yeah, y'all can pass that law but we are not coming up there because here's the brilliant thing.....acceptable ambient levels for toxic pollutants. Who determines what an acceptable ambient level is, because I read through this and I assume it's Ms. Liu from Mecklenburg County, but she's not coming up here anyway according to this, so I'm not real sure how we are going to determine that. I read through this and I have yet to see anything regarding technical review of toxic pollutants or what the acceptable ambient levels would be. I would imagine if I lived next door, let's say on Knoxwood Drive, what I consider to be acceptable ambient levels of toxic pollutants coming from the crematorium due east of me is probably less than the petitioner would agree to.

Mr. Priest said it's determined by the North Carolina Department of Air Quality.

Commissioner Jeter said who has said they aren't going to come up here and look at it unless we have 533 cases per year.

Mr. Priest said correct.

Mr. Simoneau said what the state has determined is when you go over that 533 cases in a year, then you have exceeded those limits. So anything below that they are comfortable with and therefore they don't need to review it. I just wanted to get that on the record.

Commissioner Jeter said I understand, but going to my point, they are saying that unless you have 533 cases their opinion is, according to your staff report, is that it will not exceed the acceptable ambient levels for toxic pollutants. That is the threshold set by in essence the state air quality control. So if I lived downwind of this facility or the next facility or a cemetery, for example if they only have 532 cases I'm not sure how that one extra case makes a difference, but I'm sure there's some science behind that. My second question is we reference that it's 250 per year, who's counting?

Mr. Priest said when they come for the special use permit we would mandate and put on the special use permit that they are limited to it and they would submit to us how many they are going to do and we would take their word for it.

Commissioner Jeter said if they decided to do 257.....if they don't self-report.

Mr. Priest said we could add a statement that they on a yearly basis submit something to us stating how many they are doing.

Commissioner Jeter said currently there's no language in what you are asking us to approve tonight that includes that. Do you speak for staff, and I assume you do, when you say staff would be acceptable if we added language.

Mr. Priest said sure.

Commissioner Jeter said I just don't see how if I lived on Knoxwood Drive.....we already allow it in certain areas, correct?

Mr. Priest said correct – Special Purpose it would be allowed.

Commissioner Jeter said my concern is, and I go back to our last conversation, they are now asking us to allow it as an accessory use which would mean it would be the Town Board would have to issue a special use permit in the Highway Commercial district, correct.

Mr. Priest said yes and let me clarify my previous statement. In Special Purpose, they would still have to get a special use permit.

Commissioner Jeter said are they going to come back to us in a year and tell us 2-1/2 months is too long to wait. I just don't see how if I lived next to any of these facilities.....you are asking a facility to self-report which is 250. You are asking for a facility to we say we can mandate air quality, but we are not going to have anybody who mandates it check it unless they do 533. So they could theoretically do 500 and however many and we would never know it and there's no checking on the air quality regardless of the dispersion model and we are relying on a business.....and the Raymer-Kepner people from everything that I know are incredibly reputable honest people. I have no problem with them whatsoever. But I don't know the next person down the line because this is a blanket approval, not specific to this site in question and no disrespect to them, I think they will do exactly what they said, but it's the next person down the line we've got to protect against. Going to the cemetery issue and going to all these things, I would strongly encourage the Board to deny this as written.

Commissioner Julian asked by right where can a crematorium standalone be built by right without a special use permit?

Mr. Priest said nowhere.

Commissioner Julian said emit a noticeable odor.....I would take it and I'm sure there's a, I'm somewhat kidding, body counter on these units. But if someone complained from a neighborhood, at that point our steps would be to what.

Mr. Priest said to go out and inspect and see if there is a noticeable odor ourselves from a code enforcement perspective.

Commissioner Julian said so we could require them at that point from a code enforcement or zoning enforcement to hire an outside air dispersion engineer and check the air quality in that area.

Mr. Priest said I don't think the intent was to actually come out and measure the particular matter. I think the intent was simply go out and smell around from code enforcement perspective to see if there is noticeable odor, not detectable odor.

Commissioner Julian said I'm just saying after this unit is in use for 5 or 10 years and we suspect that there's a problem through odor or particles floating that we could as a town require them to hire an outside company to evaluate their oven through this air quality dispersion model or through the emit noticeable odor or particulate phrase. Is that a correct statement?

Mr. Priest said so your question is after the initial construction of it and they pass the first test, down the road how do we know they are still not emitting the odors.

Commissioner Julian said I think we have the tools available. Of course if you added emit noticeable odor or particulate, in other words then it allows Planning or you guys to actually monitor if complaints come in from the public then to evaluate the situation and go as far as having them prove that they are not doing exactly what that ordinance says.

Commissioner Jeter said you can't make them prove it.

Mr. Simoneau said after the fact, it's been operating several years, a neighbor calls us up and says we smell something. We will go out there and we will investigate it or there's dust over here.....we would go out and investigate it. In all likelihood we would go to the funeral home, inspect their records, find out what the issues are. If we think that there is a violation, our steps would be to bring it to the Town Board and the Planning Board for consideration of revocation of permits. That is always at our side is to go through a process to revoke that special use permit if we feel that someone is violating the conditions of that permit.

Commissioner Julian said you could shut them down basically if you feel or code enforcement feels that they aren't honoring what these zoning ordinances are telling them.

Mr. Simoneau said just to be clear though, what we would do is bring them back to the Planning Board and the Town Board for revocation of the special use permit.

Commissioner Caulfield said I want to go to #6 under the Planning Board recommendation where it reads "An Air Quality Dispersion Model is required to be conducted and submitted....." At what point? It doesn't say at what point. Is that in the very beginning, at 6 months, every 6 months. What does that mean?

Mr. Priest said that would be part of the special use permit approval process. In order for them to get the special use permit approved, they would have to submit that document stating that.

Commissioner Caulfield said but there wouldn't be anything in operation, so how in the world could they measure anything? This is saying that a model is required to be conducted and submitted by a professional engineer showing that all air quality parameters, including odors, are below detectable limits. How could we measure that if there's nothing that's been started yet?

Mayor Swain said it's a model.

Mr. Simoneau said it's a model. There are folks here in the audience that could answer that. But it's a model and so what they have is the specifications of the type of equipment that's going to be brought to the site and then they model it using those specifications of that equipment and beyond that there are applicants here that could perhaps address that.

Commissioner Caulfield said so we're not saying every 6 months we need to have someone go out and test it and present that.

Mr. Simoneau said it is just at the special use permit process upfront before they can get the permit.

Commissioner Julian said just so the Board knows, I am happy with the recommendations from the Planning Board with the exception of cemetery, as Commissioner McAulay brought up. I don't think a cemetery with a standalone crematorium is acceptable to me. And then also "nor emit noticeable odors" – just add the word particles on there, dust, whatever you want it to be. Then I'm happy with those changes.

Commissioner Jeter said procedurally just so I can understand this correctly, approved this would as written and with the changes that I assume there will soon be a motion, this would allow for people to submit a special use permit.

Mr. Priest said correct.

Commissioner Jeter said so if we approve this tonight there is no one who would be eligible to go start a crematorium tomorrow. They would have to come back before the town, including the petitioner, to request a special use permit.

Mr. Priest said that's correct.

Commissioner Caulfield said I would have liked to have seen the setback kept in there with the air quality dispersion. I wouldn't necessarily want this 20' from my home.

Commissioner McAulay made a motion to approve with some wording changed and then I'll read the consistency statement. In Item #1, "accessory to an established Funeral Home," that we strike out "or cemetery." In Item #2, after "emit noticeable odors" add "or particles."

Commissioner Julian seconded motion.

Commissioner McAulay said in considering the proposed amendment to the Zoning Ordinance Articles 3.2.7 and 9 in regard to allowing crematorium uses in the Highway Commercial District as an accessory use, the Town Board finds the amendment is consistent with the Town of Huntersville Community Plan and other applicable long-range plans. We recommend amending the Zoning Ordinance. It is reasonable and in the public interest to amend the ordinance because allowing crematoriums as an accessory use in the Highway Commercial District is consistent with other ordinances around the country and allows funeral homes to expand the service they provide to the community. The conditions added and the review by way of a special use permit will allow the town to ensure that the environment and adjacent development is protected.

Commissioner Caulfield said would you be apt to add an amendment to put some type of setback from property lines on that.....minimum setbacks like 100'.

Commissioner McAulay said I'm not opposed to number of feet, but I'm wondering if the existing funeral home who is petitioning this actually has 100' that they can do.

Mr. Priest said the petitioner does. He has 116' from the building to the property line. Now, Mr. James I do not think he has 100' from his building to the property line.

Commissioner McAulay said from the proposed building that he's going to build, not the current building, he has now.....

Mr. Priest said there's a property in question. It's 128' from building to residential building and 58' from building to property line. And this is the applicant.

Commissioner Julian said if we were to put a statement in there saying that the setback from the burning unit to the next adjacent building is at least 50', that I think does work.

Commissioner Caulfield said what about 100'?

Commissioner Julian said 50' would work and I think would be acceptable.

Commissioner Caulfield said it's 128' from building to building, correct.

Mr. Priest said yes and that's a different measurement, though. That's not a standard setback to property line.

Commissioner Caulfield said I understand that, he's saying from building to building not from building to property line.

Commissioner Julian said can we go 100' from burning unit to the nearest building then.

Commissioner McAulay said no and I'll tell you why, because the next property adjacent to it might currently be vacant. I think you have to put it to the property line.

Mr. Priest said for the applicant's property, to Commissioner McAulay's point, I think that is the case. The house immediately to the west was removed our understanding is and now it's vacant. So if you set it to the building, it might be conforming and if a building moves in it could create a non-conforming.

Commissioner Julian said how far is it from the placement of where they intend to put the burning unit to their property line.

Mr. Priest said to their property line is 116'.

Commissioner Julian said so if I said 50'.....so if it was 100' then it falls within, we're fine.

Mr. Priest said to the applicants, that's correct.

Commissioner Caulfield said 100' building to building would work for the other interested person.

Mr. Priest said that's correct.

Commissioner Julian said I think if we stated 100' building to building, it works for both cases.

Mayor Swain said I understand what you are saying. I just want to remind the Board that we are talking about the overall amendment, not specific cases at this time, although I appreciate what you are trying to do.

Commissioner Jeter said I'm not voting for this anyway, however, in the sense of fairness I think that virtually all of our zoning is done based on property line to building, not to a tertiary or secondary building. Going to the earlier point it may be compliant now, but if somebody else buys that piece of property they could theoretically build a new building that would make the existing facility no longer compliant and they would have to stop doing this. I'm opposed to it anyway, but I would be opposed to anything that had to deal with building to building. I think it's got to be building to property line. I think the petitioner and the special use permit holders are going to want it that way. That way they can control their destiny. From that standpoint 50' is probably an acceptable number based on the slides we've seen here tonight.

Commissioner Julian said then I would recommend no setback because again what the Planning Board came up with is they didn't see a need for a number because as far as the neighbors, they are protected through the odor and particles in the air quality. I would like to see us leave the setback out.

Commissioner Caulfield said clarify this, if in this case you are saying that a new building came in after this was already issued, would not this petitioner be grandfathered in. We would not go back and change, is that correct.

Mr. Priest said I think that is correct.

Mr. Simoneau said that is correct that it would be grandfathered in, but that's typically why we do from building to property line is because you cannot control what that next door neighbor does, so that's why we avoid building to building unless it's on the same property and it's fire protection issues. But to answer your question is if the property was vacant now and somebody came in and wanted to build within 15' of that side property line a single-family dwelling, we would issue that permit and then the crematorium would be out of compliance but they would have pre-dated that situation. That's why we try to avoid going from building to building.

Commissioner Caulfield said when we did our wind change, did we not do something from building to building on that.

Mr. Simoneau said when we did the windmills.....I think it was a one-to-one relationship of the tower height to the property line. I don't believe it was building-to-building.

Commissioner McAulay said I would like to amend my motion for Item #6 and reinsert that sentence that is marked out "That all storage, handling, incineration, and loading facilities will be located at least 50' from any exterior property line."

Commissioner Julian seconded amended motion.

Mayor Swain called for the vote.

Motion was tied 2-2 – Commissioners McAulay and Julian in favor; Commissioners Caulfield and Jeter opposed.

Mayor Swain broke the tie by voting in favor.

Parks & Recreation Commission Appointment. The term of this vacant seat formerly held by Joe Murgolo will end on December 31, 2012. Five applications have been received.

Commissioner McAulay nominated Henry Stiene.

Commissioner Jeter nominated Casey Fitzsimons.

Commissioner Julian nominated Dan Boone.

Commissioner Caulfield nominated Dan Boone.

Vote for Henry Stiene: Commissioners McAulay, Caulfield and Julian

Vote for Casey Fitzsimons: Commissioner Jeter

Vote for Dan Boone: None

Commissioner Caulfield made a motion to appoint Henry Stiene to the Parks & Recreation Commission. Commissioner Julian seconded motion. Motion carried unanimously.

Street Name Change Policy Update. Mayor Swain said in the last couple of months I know Commissioner McAulay and myself have had some discussions with a resident and a request to change a particular street name, but in addition to that there have been some other discussions about potential street name changes. This has been handed over to Max.

Max Buchanan, Public Works Director/Town Engineer, said the recent requests have spurred us on to kind of formalize our policy or ordinance. A couple of things that we are looking for some direction is would you want to adopt a formal policy or would you want to put it in an ordinance. What we envision over the next couple of weeks is putting something together probably mirroring the City of Charlotte's street name change policy. It requires a petition from adjacent property owners, I think 60 percent approving the name change. There's some criteria there that also has to be met. Basically a petitioner just has to apply for a street name change. The staff would have to go through the research and work with our partners at Mecklenburg County to ensure that we don't have any duplication of street names and that we do it formally to have proper emergency notification and those type of things. I think if you will give us 2 to 3 weeks to put something together, we can bring it back before you. The two questions I'd have is would you prefer it in a policy or an ordinance and secondly would you want that street name change request to come back to you for approval or approve it at staff level.

Mayor Swain said let me throw something else out, too. Should there be a street name change approved, we also have to keep in mind allowing the residents who are on that street time to change address labels or subscriptions, utility bills and all that. I think Greg had mentioned, too, with GPS now you have to follow-up on that.

Mr. Buchanan said it's definitely not simple. We'll work through our partners again at Mecklenburg County and there's a full procedure about notifications and those type of things. It's not a simple procedure.

Commissioner Julian said are we getting requests to change street names?

Mayor Swain said yes.

Commissioner Julian said when you vet out this policy.....certain names would not be allowed.

Mr. Buchanan said no offensive names and certain criteria has to be met.

Commissioner Caulfield said I would be fine with it being a policy and I would also be fine with it going to staff level so it doesn't have to be tied up.

Commissioner McAulay said I think it should be a policy and I'm not sure about the approval. If we are going to have public hearings and public input on it, then it seems like to me that should come to the Board. And I believe we should have a public hearing.

Mr. Buchanan said the City of Charlotte doesn't do that. It's just a petition. Like I said, 60 percent have to sign that they approve the change and I guess that substitutes for the public hearing. Either way we can do a public hearing which extends it out further.

Commissioner Caulfield asked how will they be notified? Will they be mailed?

Mr. Buchanan said if you do a public hearing you would have to do a mailing.

Commissioner Caulfield said if we don't do a public hearing, how will those people know there's a petition.

Mr. Buchanan said the burden would be on the petitioner to acquire those 60 percent signatures.

Mayor Swain said like the streetlight policy.

Commissioner Caulfield said they have to get 60 percent to say okay to it.

Mr. Buchanan said that number varies. The City of Charlotte uses 60 percent. You can require 100 percent.

Commissioner Jeter said traditionally policies have not been as well worked as ordinances have been in this town because policies have a tendency to be overlooked or under considered whereas ordinances by law cannot be, therefore I would prefer it be an ordinance because of a lot of things we just spoke of which is having people change their mailing address, GPS, safety and fire, police, all the other issues. Changing someone's street name, while it may sound like a simple thing, is a significant change in someone's life. Secondly, because it's such a significant change in someone's life.....we require a public hearing and a Board vote to put in speed cushions. I can't imagine we'd have a lesser standard to change the name of a street itself. Preferably from this commissioner I'd like for it to be an ordinance that requires a public hearing after they have met the 60 percent requirement, which I think is a fairly decent standard and then approved at the Board level. That would be my preference.

Commissioner Julian said I somewhat agree. I'm just sitting here thinking, so if a person owns 60 percent of the street basically he or she can go change the name without.....60, I think it needs to be upwards of 90.

Commissioner Jeter said if it's 60 percent and it comes to the Board.....

Commissioner Julian said I'm talking about for a policy.

Bob Blythe, Town Attorney, said what about something like if 100 percent petitioned it doesn't have to come to the Board or something.....these are just possibilities.

Commissioner Jeter said if you get everybody that owns every piece of property on that road.....

Mayor Swain said they're short roads, it may be possible.

Commissioner Jeter said then I would agree to 100 percent. If they don't get 100 percent, then it's got to come to the Board. But if they can get everybody to sign it and notarize it and do all the legal requirements, sure – name it whatever they want within reason.

Commissioner McAulay said I do think also if we are going.....and I don't really disagree with whatever everybody suggested, but I do think that.....for the Board to call for a public hearing if the staff.....I would accept them recommending that we not call for a public hearing because traditionally we always go ahead and approve calling a public hearing whether we think we are in favor of that change or not. I think if it's such a case that the staff would recommend we not call a public hearing that would be acceptable.

Mr. Buchanan said possibly waive the public hearing.

Mayor Swain said let's let him develop the policy and come back to us because you are fine-tuning it right now.

Right-of-way Abandonment Policy. The Town Engineering and Public Works Department, in partnership with Town Planning staff, is proposing adoption of a formal Right-of-way Abandonment Policy. The proposed policy clearly details the abandonment petition requirements including all associated fees. The proposed fee of \$1,450 per right-of-way (\$700 for each additional) represents costs that will be incurred in the administration of the policy including review, mailings, legal advertising for public hearing, etc.

Commissioner Jeter made a motion to adopt Right-of-way Abandonment Policy, including associated fee.

Commissioner Julian seconded motion.

Motion carried unanimously.

Policy attached hereto as Attachment No. 3.

CONSENT AGENDA

Approval of Minutes. Commissioner Jeter made a motion to approve the minutes of the September 6, 2011 Regular Town Board Meeting. Commissioner Caulfield seconded motion. Motion carried unanimously.

Budget Amendment – Police. Commissioner Jeter made a motion to approve budget amendment appropriating funds received in the amount of \$2,324.76 from DDRTC Holdings Pool 3 LLC for the month of August to the Police Department’s budget for overtime and benefits. Commissioner Caulfield seconded motion. Motion carried unanimously.

Accept Streets for Maintenance. Commissioner Jeter made a motion to accept the following streets for Town maintenance. Commissioner Caulfield seconded motion. Motion carried unanimously.

Street Name	From	To	Approx. Length
Chelsea Ridge Lane	225' S of Carrington Ridge Dr.	Chelsea Ridge Dr.	1,050'
Waverton Lane	Carrington Ridge Dr.	Waverton Ln.	375'
Waverton Lane	Waverton Ln.	Chelsea Ridge Ln.	250'
Cypress Woods Drive	Carrington Ridge Dr.	Chelsea Ridge Dr.	680'
Colonial Garden Drive	Carrington Ridge Dr.	230' SW of Chelsea Ridge Dr.	800'

Call for Public Hearing – Petition #S11-02. Commissioner Jeter made a motion to call a public hearing for Monday, November 7, 2011 at 6:30 p.m. at Huntersville Town Hall on Petition #S11-02, a request by Glenwood Development Co., LLC to revise the Special Sign District Overlay for the Shoppes at Birkdale Crossing shopping center. Commissioner Caulfield seconded motion. Motion carried unanimously.

CLOSING COMMENTS

None

There being no further business, the meeting was adjourned.

Approved this the 17th day of October, 2011.