

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

**August 1, 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 August 1, 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.

Mayor Swain led the Pledge of Allegiance.

**MAYOR AND COMMISSIONER REPORTS/STAFF QUESTIONS**

Mayor Swain said we had a Red Line Task Force meeting last Thursday. We actually hosted it here. It was nice to have the representatives from Charlotte come to our neck of the woods. I am very encouraged. Paul Morris who is the consultant of the Red Line, he's actually moving fairly quickly on the report that he's going to be presenting to the MTC and to CATS. He'll be talking about potential funding mechanisms for the Red Line. Those may be different in different quadrants along the line. They may be creative, but he's going to provide some different scenarios for us. We are progressing with that. Mayor Foxx was here, Mayor Woods was here. Mayor Tarte could not make it. And Carroll Gray from LNTC. The representatives from the communities all agreed that we did want Paul Morris to proceed in that direction. Nothing with Arts & Science Council or EDC at this time. I did want to give a couple of announcements. I mentioned this last meeting. This is a big deal that the International Tournament of Champions for wheelchair athletes will be here next week. These are incredible international wheelchair athletes who will be coming from all over the world. It's my understanding that the German women are in town tomorrow – they are here already. We have a number of entities in our own community that are doing incredible things to make the German team feel welcome and when the remainder of the athletes come, the exact same thing is going to happen. Our entities here in Huntersville have rallied. Charlotte missed the opportunity. From Visit Lake Norman receiving the word, to our Parks & Recreation Department receiving the word and then the entities in our community, we rock. If you can attend, we have information. It's on the Visit Lake Norman website. Also, I understand that there is a potential traffic jam that will be happening around the new Earth Fare store this week. August 3 is the ribbon cutting. I just want to give the citizens a heads up just to watch because Earth Fare has received word that people will be camping out in the parking lot. If you are traveling in that direction, just be very careful about that. I also wanted to give you all a heads up that the next Huntersville Connection meeting will be on August 16. Currently there are 160 entities that are part of a Huntersville Connection. If you have a business here or an entity, you are welcome to join them.

Commissioner Caulfield said the next Centralina Council of Governments meeting will be August 10. I haven't had any meetings since my last report. The next Police Dispatch meeting has been moved from August 5 to somewhere around the end of August.

Commissioner Jeter said the July meeting for the Lake Norman Transportation Committee was canceled. The August meeting is upcoming. I don't know if it is next week or the following week. But I will get back to you.

Commissioner Julian said the first report is from the Chamber board. There is no report other than the next meeting is September 26. I'll be attending that. As far as the EDC, the July board meeting was called off, so the next meeting there is August 18. There was an announcement last time about Positec opening up their warehouse in Huntersville and more jobs coming to Huntersville, which is a very bright spot in the Huntersville businesses. The last thing I have is the School Advisory Committee. They met on July 21. It was a great meeting. A lot of principals from around the area. A lot of the members were there and what they are looking at is how they can welcome the Davidson IB kids to Alexander Middle and make them feel a part of the school, since the IB program is merging in. It was a great meeting. They are doing some great things and more to come.

Commissioner Jeter said I know Commissioner Julian and I as well as Mayor Swain and Commissioner Caulfield attended a meeting at Torrence Creek about Stumptown Elementary. Is that something the School Advisory is going to.....I think it is important we stay on top of that and I think ideally it best come from your committee.

Commissioner Julian said I think 100 percent that there was discussion that Karen Bentley, District 1 County Commissioner, has made a commitment that the new Stumptown school which is a relief for Torrence Creek Elementary School, which is overcrowded will happen in the 2013 school opening – the 2013 school year. I think with that commitment, along with Rhonda Lennon and so forth, the School Advisory Committee was comfortable, but definitely will stay on top of it.

Commissioner Jeter said the key there is at the meeting as you are aware is the vote has to occur in April 2012 and if it does not get approved at that point, then they cannot meet the August 2013 opening deadline, so one of the things I think we as a town need to certainly watch that vote upcoming.

Mayor Swain said you could also have an advancement of funds. That can happen in the next several months.

Commissioner Jeter said certainly, I just want to make sure that we don't let April go by and I know Commissioner Julian will stay on top of it.

Commissioner Julian said one other note, I noticed that the Northwest Huntersville study schedule came out in our Friday report. I did want to let everybody know there is a schedule out when those options will be coming to the Board for discussion and so forth.

Commissioner McAulay said the Metropolitan Planning Organization met the middle of July. The next meeting will be September 21 at which time we will possibly have the Northwest decision to be made. The North Carolina 73 Corridor Planning Group, you have a good write-up on Pages 5 and 6 of that. The Planning Coordinating Committee for the county-wide, their second meeting of the year will be in the fall. Visit Lake Norman Board met on July 18. As I reported to you last time, the Executive Committee did not present an interlocal agreement to the full board to vote on. Our next meeting is scheduled for September 19 unless the Executive Committee chooses to call a meeting and present an updated interlocal agreement.

Greg Ferguson, Town Manager, said I would like to recognize the Police Chief and the Police Department. Today was the announcement of the Advanced Reaccreditation for the Police Department in the CALEA process, which is international standards for police service and work. What it means is there are a huge number of documented files and procedures and policies that have to be reviewed and kept up to base on an annual basis. It's a three year accreditation and it was announced this past Saturday in Cincinnati. I want to recognize the department, the men and women that work there and the Police Chief as well.

Mayor Swain said I had the honor of being there for the first one and can attest to the fact that this is a big deal. Congratulations to you.

### **PUBLIC COMMENTS, REQUESTS, OR PRESENTATIONS**

Jim Garges, Mecklenburg County Park and Recreation, said I sent some information earlier and I passed out another sheet tonight that talks about more of the economic and environmental benefits of Parks and Recreation and I'm not going to go over all that information, although it's all important. What I wanted to do, though, is just take a few minutes and let you know first of all the department is alive and well. After two years of difficult budget cuts, many departments around the county suffered even more than we did. I think we are really out of that hole. I think the county has gotten back on better financial footing. We are down almost 700 positions county-wide from what we were before – 200 in Park and Recreation alone and we lost about \$20 million in the budget. But I can tell you that the department I believe last year after completing its first full year after that downsizing really did a good job. Part of that is due to people like Michael Jaycocks and his staff and the cooperation that we've had from all the towns in trying to continue to provide cooperative Park and Rec programs across the county. That's really our job and when I mean our, it's all the professionals in Park and Recreation and being an accredited agency I really admire and glad to hear that you did so well. I know that's a difficult thing to go through and the police department really was one of the leaders in developing Park and Recreation accreditation across the country. That was one of the model organizations, both police and fire. That's a big step. Congratulations to the police department. We are doing well. You might have heard a lot of information during the budget process about the money that we got back in the budget. That was a good thing. We didn't have to do too much arm twisting. I think people really stepped up, but mainly the commissioners I think understood the importance of trying to provide more funds as we go ahead with additional dollars to balance some of the needs for Park and Recreation. That's a good thing. We were able to open up some of our centers, their hours, to fully fund those hours again. We got that back. We got some more money within maintenance on a county-wide basis, some more programming staff. So again I think even though it's \$3.3 million out of \$20 million that's putting us in the right direction. The other big thing that happened that I think is most important, particularly for residents when it comes to new and improved services. Last August we sat down with the County Board of Commissioners as they were trying to talk about capital projects and really made a pitch for open space acquisition and parks for the future – that's greenway, active parks, nature preserves and the need for us to move ahead in that area, particularly in this environment when the prices are so good for land. What they agreed to do is take 5 percent of any future capital bond sales or pay go cash coming out for operating strictly for open space acquisition. And that's a good thing. We are on the hunt and have been since the 2008 Master Plan for more parks, more greenways and to preserve more of our natural areas across the entire county. If you recall on the Master Plan Green Printing Study, that was the process that we went through at the Trust for Public Land, we identified over 6,000 acres across the county that have the potential to be preserved for open space preservation, active recreation or greenway. Now we won't be able to get all of that because not all the 6,000 people I'm sure are willing to sell, but those that are interested and parcels that come on for sale at different times, hopefully the

county will be in the position to move ahead. We've been very fortunate in the past to be able to acquire the number of acres that we do. The county now maintains over 19,000 acres of park land. That's still not enough park land for the residents today, let alone in a growing region that we are in, so we need to keep that in front of us.

A couple of good things also happened in the capital review process. One I think is a little problematic, but we did fairly well. Before if you were a Park and Recreation Department, you had your own bond money. If you were the schools, you had your own bond money. If you are the libraries, if you were CPCC. You still do, but all of the projects in terms of ranking are put into one bucket and they are prioritized with this process that the board has put together, so you could have a school project, park project, CPCC or library. And that's exactly what happened. Anybody can say the process could have been this or process could have been that, but out of the first allocation there was about \$132 million to be distributed this year. Park and Recreation got about \$25.2 million, plus \$6.5 million for land acquisition. That's good. We have this backlog of pin-up demand and you are trying to push these projects through the shoot, so I think we did well. The good news is Romare Bearden got full funding. We are going to have the groundbreaking on September 2, which is the anniversary of his 100<sup>th</sup> anniversary of his birth. I would encourage you to come down. That will really be the first true urban park in Charlotte for all of Mecklenburg County. Many great cities have these urban parks. This is really going to be our first true urban park. We also got the first allocation for the Mecklenburg Sportsplex which is down in the south. And we got money for greenway acquisition and also money for greenways that we needed to complete. We are working hard with the Carolina Thread Trail in this area on a trail which you might have heard of that comes all the way down through Concord, goes through Long Creek and all the way down through. I think that's going to happen. There's a real interest at the federal level still in transportation for greenway corridors. That's a very good funding allocation for money. And I think with all the work that the Thread Trail has done and the bones of a great greenway system, I think that project stands to move ahead and that's going to be very exciting. I-485, I came across, as you know is getting close to completion. We also have a grant from the North Carolina Department of Transportation, the City of Charlotte and ourselves to expand the underpass at Clarke Creek. If you are familiar with the Mallard Creek/Clarke Creek greenway, Clarke Creek comes all the way up through here and actually it goes under 485. It's about a \$1.8 million project to make sure that is designed so under that tunnel structure, bikes and pedestrians can get through. That's a great thing. We are moving tomorrow night with the Board of County Commissioners to actually move ahead to formalize that project.

What I would encourage you to do after this evening I'll be glad to answer any questions is take a look at the information that I provided. This information comes much of it from the study that we did the economic study on park and recreation. I was up not too long ago and gave you a little information on that and I'll leave the text copy with you. But this information tells about the importance of Park and Recreation activities to Huntersville, as well as everybody here in Mecklenburg County. It talks about the economic benefits, the health benefits of the support that you've given and also the activities and the need for more youth recreation. We'll have more of these educational pieces coming out to share with all the towns to really promote and advocate for park and recreation services going forward.

Again, I just wanted to take a few minutes to come out and tell you that we are alive and well. Things are going good and again I think Park and Recreation services here with the towns and the rest of the county residents is going to continue to be a strong thing and hopefully something that all residents appreciate.

Commissioner Jeter said you mentioned at the beginning part of your statement that you still don't have enough park land for our community and our community obviously still going through these tough economic times, my question is do you count neighborhood park lands or are you only counting county-owned park lands.

Mr. Garges said we only count land that is open to the public. If a homeowners association has property, which many of them do, that's for those residents, it's not for the general public so we don't count private land in any of those totals.

Commissioner Jeter said my neighborhood has a pretty sizable area that we would use primarily for park. In fairness, I'm not sure how you would count that since it's not public.

Mr. Garges said the good thing is it helps with the balance. For instance if you had a large homeowners association and they had a large swimming pool complex, it wouldn't make sense for the Park and Rec Department to put a pool right next door because the needs are met. When you plan for certain things, you take that into consideration, particularly from a public facility standpoint.

Commissioner Jeter said my second thing is you made the statement about the new allocation of projects. I summarily disagree with your analysis that is a good thing. To put in perspective, you threw out two numbers that I think.....I don't disagree it's good from a Park and Rec standpoint, but let's be real clear \$22.5 million and \$6.5 million for land acquisition are going to Mecklenburg County and the bond issuance or the bond sale that was approved by the county commissioners I think two weeks ago, that circumvented Stumptown Elementary to being allocating funds. Now the argument against that is that it won't delay the opening of Stumptown Elementary. Of course, in 2007 after the failed bond referendum in 2005, we were also assured that there wouldn't be any politicization of the list and Stumptown Elementary had gotten to No. 5 on the list, only to find out all of a sudden the priorities are changed. I can tell you this, it is my opinion and I may be in the minority on this Board and I may be in the minority of this community, but make no mistake the County Commission just took over funding and prioritization of which schools are going to be built in this community. They took that over from CMS and they did so without consulting CMS according to the leadership there in a meeting that we held. If you think that benefits our community and the school problems we have here, then you haven't paid attention the last 15 years. We may get a lot of open space, we may get a lot of parkways, we will not get new schools. This is not a good decision for Huntersville residents. Stumptown Elementary notwithstanding it may still open on August 2013, but County Commissioners took the ability of deciding which schools are going to be made for the first time in history away from CMS. That is not good for our community.

Mayor Swain said it's my understanding that those bonds were to be utilized specifically for Parks and Rec.

Mr. Garges said the ones that I was talking about, I think the difference of course.....I think anybody can have fault with the process. The process is something the County Commissioners decided to do, but it is true that all the projects were put into one pot. And so Park and Recreation had a different priority than the process and but I would say in our case and I would say for the schools too, some of the higher priority projects are in that first allocation, but not all of them. Not all of them for us, or not all of them for CMS. It is a new process for sure, but I think what the county was trying to do is get that backlog and get them through that shoot and start to get things going again, so there will be controversy, but I also think there will probably be room for compromise and how the process moves going forward. I would encourage you to let County Commissioners know about any concern you might have with the process.

Mayor Swain said it certainly is not your job to speak for the County Commission, so we won't put you on the spot. Let me ask you quickly, what is the current status of Carolina Raptor Center?

Mr. Garges said they have a new director and I think he is doing a really nice job. I don't know what their financial picture is.

Mayor Swain said will they be moving is where I'm going.

Mr. Garges said I don't know that. What we've done is one of the projects that we have in the 2008 bond issue is a new nature center at Latta. We've offered to have a joint rapture/nature center together so we could leverage county funds with what the Raptor Center might be able to raise. Had a lot of conversation about that for the last 2 or 3 years, and we'll have to see where that goes but that offer is still on the table, we just have to see when that project bubbles up through the process.

Commissioner Julian said I do agree with Commissioner Jeter on the process. I realize you were not part of that process. I will agree with him on that. My question is, what projects do you have slated for Huntersville either now or in the future.

Mr. Garges said I would say the one that bubbled up the quickest in the process, if the funding allocation is \$132 million, I think there's a good chance the expansion of Bradford Park is going to bubble up in there, which is good. There are some greenway projects. We also have several parcels in this area that we are looking at for land acquisition. I think we'll do okay, in particularly expanding Bradford I think would be a great project quickly. The one big one, we talked about the recreation center in the north. That didn't make it in the first cut, doesn't look like it made it in the second cut, so I think that's going to be in the future.

Commissioner Julian said I know we met some time ago in a personal meeting, it's still one of my concerns is that Huntersville is the second largest land area in Mecklenburg County up to Charlotte, that we receive the return on Park and Rec funds into our area. I know there's a complex slated up in Cornelius somewhere, up in that area, as we move forward and you are looking at parks, I hope that you will look at Huntersville and the revenue that we are sending down there to make sure that it comes back to this area.

Mr. Garges said Michael and I will continue to work together. Our goal is to provide more park space. I think if there's identified areas within your jurisdiction that we can help with, that's what we do.

Commissioner Julian said you're right, Huntersville has some great parks and they have been paid for mostly or a lot of it by the Huntersville residents. Please don't penalize Huntersville because Huntersville has done a good job with providing those parks.

Mr. Garges said we won't do that.

Commissioner Caulfield said I would just like to reiterate and I know it was not your decision of the reprioritization, I just want to say that. But I definitely already voiced by dissatisfaction with that process and understand in trying to do something new that people sometimes don't always get it right, but I already stated that. I definitely agree that Stumptown Elementary should have not been pushed back behind other projects that were put in front of it, but I know that wasn't your decision. My

question to you is, do you have anything to do with the getting the lake opened up to swimming up here. Are you involved in that process?

Mr. Garges said we do and the other project that didn't bubble up through and I don't even know if it bubbled up through next year is the Ramsey Creek beach operation. That's about a \$500,000-600,000 project, not terribly expensive, but that's the first beach operation that we would open up. Latta I think has potential, we'll have to look at that one carefully, but Latta would probably be No. 2. And then those are probably the two top sites. We do have another site that we've looked at that's on the lake – property that we don't currently own that is for sale and it might work as a beach access, I'm not real sure. But Ramsey would be the first one.

Commissioner Caulfield said I have a follow-up question for that, just in thinking about it a lot of people in this area say that the lake is gorgeous but it's only for the wealthy, it's not open to our community. And as we take our boats and jet skis out on the lake and I see people jumping in the water and they have their life jackets on and they are right next to shore, has the county or have you ever considered opening up our parkways and just saying you can swim but you have to have a life jacket on. To me that would take away the liability, but it would open access to our residents, to other people that don't just live on the lake or have boats.

Mr. Garges said the short answer is no. The longer answer is the best way to provide swimming is safely. We do have quite a bit of illegal swimming and we have had several drownings. We had a drowning right at McDowell last year – primary for illegal swimming and also use of drugs and alcohol, so swimming on the lake is not as easy as it might seem. Allowing people to come in any place on our property and enter the water would not advocate us of our responsibility, so the best way is to have a beach operation at as many locations as you can and operate it as safely as you can, so that's the approach that we are taking.

Commissioner Caulfield said maybe just something to think about when you are going through the process, because it's definitely safer to have a life jacket on than to not, even if you have a lifeguard.

Mr. Garges said it is if a sign would work, that would be great.

Commissioner Caulfield said it's just a thought. I just really want to see the lake opened up to our residents.

Bruce Andersen, 16125 Weatherly Way, said I didn't know I was going to speak on this. I saw it on the agenda and just reviewed the material you are going to discuss on the bylaws for the Parks & Recreation Committee. I've been involved in many county committees and Mecklenburg County's policies are basically if you own 5 percent of a company you shouldn't have business with it. At the time I was on one committee, I didn't own 5 percent of Duke Power so it was okay for me to vote for something to do with Duke Power. That's silly. We need conflict of interest statements that make sense. If you own a piece of the business, if you have a relationship with the owner, if your wife has a relationship with the owner, it ought to be you are not supposed to make a decision on it and I think that should hold true for you folks.....I know you have a conflict of interest statement. I think it should hold true for every committee. And I noticed there's nothing on this committee draft.

### **AGENDA CHANGES**

Commissioner Jeter made a motion to adopt the agenda.

Commissioner McAulay seconded motion.

Motion carried unanimously.

### **PUBLIC HEARINGS**

**Petition #R11-03.** Mayor Swain called to order continuation of public hearing on Petition #R11-03, a request by Pegasus Tower, LLC to rezone approximately 1.52 acres of a 19.52 acre parcel located at 9845 Mt. Holly-Huntersville Road from Rural to Special Purpose – Conditional District in order to construct a 199' tall cell tower.

Whitney Hodges, Senior Planner, said there was new information that was in your packet and so I want to enter the staff report into record. *Refer to Attachment No. 1.* This is just kind of giving you an aerial view of the location of the tower and what the surrounding area is. One of the changes was there was a letter in your packet that asked for a monopole with antennas to be on the outside. Unfortunately the petitioner sent in essentially the wrong drawing for what they wanted – it was just an example. In front of you are the three drawings. The first one is a monopole with the antennas on the inside. The second one is a monopole with six antennas on the outside and then the self-supporting is the other. They are not asking for the self-supporting, but it was included in your packet.

Just to kind of show you what these look like in the real world, the one on the left would be the monopole. The one on the right would be a monopole with the antennas on the outside. The other issue that we had was with the coverage maps. As it was explained to you by the petitioner, the coverage maps that were presented the last time show you all types of coverage. What they have done is kind of consolidated that to make it a little easier to say if you were inside a building.....say you were inside your home, where would you have coverage. In this map you would only have coverage of existing coverage in the red areas. The second map shows....the red area shows if there was a monopole with the antennas on the inside, that's the red areas. The outlying of green would be kind of just imagine just expanding that red area to the green area and that's what the additional coverage you would get with the antennas on the outside. Their engineers say that would be an addition of 23 percent. Staff is recommending against the request essentially because we kind of feel the request isn't necessarily needed. We have opportunities within the zoning ordinance to do colocations. Colocations would essentially be you would put a tower or some sort of antenna on a structure. These are just examples, they are in the staff report as well, of what they would look like in a rural setting. But the colocations would be in keeping with the harmony of the surrounding area, which we talk about in the Community Plan as well as one of the things that we look at when we think about rezonings. The other is that this could be considered a spot zoning issue. Spot zoning occurs when you rezone a relatively small portion of land. It has a different zoning than its surrounding land. The Special Purpose District is what they are asking for. The closest is 7,500'. In Corporate Business, they also allow the stand alone communication towers and the closest one there is 2,700'.

Commissioner Jeter said could you go back to the first Christmas diagram. If I am to believe this map.....who provided the data for this map. I'm assuming it was not staff.

Ms. Hodges said no.

Commissioner Jeter said if I am to believe this is correct, then in essence everywhere in that white area, which is roughly 3 miles north, 3-1/2 miles west, ½ mile to the east, you are not getting cell phone coverage. If I go down there and I turn on my cell phone, it's not going to work.

Ms. Hodges said if you are inside a building, it will not work. The coverage maps from the last time, which I've got those too, show the different shades of coverage. In this area, the green represents the best coverage that you can get. And it shades down. So it may mean that you may get coverage, but you have to go outside to use it. What they did was consolidate that map to say this is a standard to say if you could use your cell phone inside of a building. But that may be a question you also want to have for the applicant. The engineer who prepared it was V-COMM and his credentials were in the letter that he sent that was in your packet.

Commissioner Jeter said can I assume that V-COMM is a paid consultant for the petitioner or the landowner or the cell tower company.

Ms. Hodges said that is the assumption I would make as well.

Commissioner Jeter said the other thing that concerns me is they are requesting a 199' monopole. Why are they requesting a 199' monopole versus 200'.

Ms. Hodges said I believe that is because it would require a different permit from the FCC.

Commissioner Jeter said does it not require a different permit from us as well?

Ms. Hodges said not that I'm aware of.

Commissioner Jeter said so it's just an FCC issue. Is it fair to say that this tower would almost exclusively serve the neighborhood to the south of it.

Ms. Hodges said I think probably the best visual is the map.

Commissioner Jeter said if I'm correct based on my geography, the road that you see cutting across is in essence the city limits between Huntersville and Charlotte, correct?

Ms. Hodges said it is.

Commissioner Jeter said so we are going to build a 199' tower so that the petitioner does not have to build something extra for the FCC, but they are going to build it probably at 199'11" just to make sure they are underneath it and they are going to do it primarily for the Charlotte area in Huntersville through a spot zoning request. Is that a fair question?

Ms. Hodges said that is a fair question. The answer would be that there would be relatively little development in Huntersville because of the watershed restrictions which is why a lot of those parcels are classified agricultural.

Commissioner Jeter said so you are saying even if we provide blue ribbon cell phone coverage to the Huntersville residents in that area, the likelihood of residential development is slim due to our watershed and environmental controls.

Ms. Hodges said yes.

Commissioner Julian said go back to the Christmas tree coverage. That coverage was certified.....is that an AT&T coverage, a Verizon coverage, a Sprint coverage, Nextel.

Ms. Hodges said I would defer that question to the applicant. I make the assumption that is based on that there are certain carriers that they provided and it was in the packet of information. One of them I believe was AT&T. Another one was Clearwire and I off the top of head don't remember the third. But I think the petitioner probably.....

Mayor Swain said let us finish the questions of Whitney and then we'll have the petitioner come up and you can ask him that.

Commissioner Julian said the next question for Whitney is are there any other cell towers in the area of another provider, whether it be concealed or unconcealed.

Ms. Hodges said the generic answer to that is yes. The existing coverage map from the last time shows different towers. I don't have a map of all of the towers or co-locations that we have permitted.

Commissioner Julian said we do not have a map of the towers and colocations. That is something in the future I think is very important. I think first of all towers are needed or people need access, but this tower here I would like to think that another tower is not going to be needed by another set of vendors 50' or 100' away because they are not able to put their antennas on that tower. That's a concern.

Ms. Hodges said I can certainly try to work on a map. I'm not sure I can work on what carriers are on each tower, but at least to show you where tower locations are.

Commissioner Julian said I just want to know where the towers are because when you are looking at coverage, whether it's concealed or a tower, it's according to whose antennas on it as to what the coverage, so I guess when the petitioner comes up he'll answer that. My other concern is the 199' – the setbacks...I believe 100'.

Ms. Hodges said the setbacks are 200' from all property lines.

Commissioner Julian said so that's a right triangle, so you are going to be looking is that the proper setback or should it be more.

Ms. Hodges said that is what the ordinance states. That would be something we would have to change the ordinance to do.

Commissioner Caulfield said I just want to clarify something in public. I know the answer to it, but I would just like for you to answer if you don't mind. In North Carolina it is illegal to do spot zoning, is that correct?

Bob Blythe, Town Attorney, said not necessarily.

Commissioner Caulfield said my real estate class is telling me it is.

Mr. Blythe said there's illegal spot zoning and there's legal spot zoning. Basically what it does is that if it qualifies in the traditional definition of spot zoning which is to say a small area and North Carolina says owned by one property owner within a larger area that is relieved of some of the zoning requirements of the larger area then it comes under the definition of spot zoning. This to me seems to come under that definition. However, once you make that determination then the burden is placed upon.....sort of a burden of proof goes back to the Board if they wish to grant that particular rezoning which is a spot zoning to show by clear evidence that it is in a balancing act that it is better to have the spot zoning overall than not to, but the burden is on you and for the petitioner to prove that those benefits outweigh the detriment to the zoning. Spot zoning in and of itself in North Carolina is not per say illegal but it does cast a different standard as to whether or not you can grant the so-called spot zoning.

Commissioner Caulfield said so if we did spot zoning we would have to have clear, precise justification to do so.

Mr. Blythe said that's exactly right.

Commissioner Jeter said if I could follow-up on that point. If I understand Mr. Blythe correctly, which this would be the first time in six years.....going to Commissioner Caulfield's point and your point on spot zoning, it's legal if the town says it is necessary and there's a reasoning behind it and all these things. Let me read you two passages to the Board and to the public of the 2030 Huntersville Community Plan. Policy E-1 states that the Town should support the preservation and enhancement of the natural environment, along with its scenic and cultural assets. Could you go back to one of these pictures.....199' pole there would look like we were visited by aliens. It would do a lot of things, but it would not support the preservation and enhancement of that natural environment. Policy E-2 of the 2030 Huntersville Community Plan states that locating new development in areas of significant environmental, scenic or cultural resources, the Town should avoid doing so. Once again going to the point Ms. Hodges has already made, that's a significant watershed issue. It's clearly a scenic issue. If we have a higher litmus test for spot zoning, this doesn't even qualify on a basic test and to put this in perspective, this 2030 Huntersville Plan that I'm referencing was 2 years in the making and was approved unanimously by this Board, which is almost impossible to do unless you are approving an agenda, 4 weeks ago. Are we really going to get 6 weeks into this and go ahead and violate two of the considerations that we had people like Dr. Holtje and Joanne Miller and Janet Spain and our Planning staff and our Planning Board and our Town Board spent years. This is Zac Gordon's life for the past 2 years. I think he named one of his kids 2030 Community Plan.

Jonathan Yates, representative of Petitioner, said I cannot speak as well in public as Commissioner Jeter. First, to Commissioner Jeter's question regarding the 200', there is no additional scrutiny. At 200' you have to put lights on them. And actually it's 195'. There's 4' on the top, which is simply a grounding device – a lightning protection device. So the 200' is a magic number, but that's from an aesthetics standpoint. The standpoint of that is you probably wouldn't want lights, so it's been brought down to not have lights. Quite simply what we are trying to do here and we've got to stay on course, we are providing wireless infrastructure. We talked about this before. This is 21<sup>st</sup> century infrastructure. This is no different than a power line, water/sewer line, except instead of running every linear foot and to every house, from a few select vantage points you put a vertical facility. In this case you design a facility so it has space for all the licensed carriers to go on it. If they need this to get the coverage to the surrounding areas, they can provide it. That's all we are trying to do here. The problem is we find ourselves there and if you will look at the coverage maps, yes across the street is City of Charlotte, it will pick up a little of that, but the thrust of this coverage is into the town of Huntersville. Unfortunately we have to work with local zoning codes. Fortunately/unfortunately we are in an area that is

predominantly zoned Rural. We are not permitted in the Rural, so we have to do our best job possible. In this case what we are asking for is not creating an SP-CD with all kinds of uses. And I reviewed – there's a lot of uses under Special Purpose.....things that I never thought I'd ever try to get abattoirs, all kinds of uses that are pretty obnoxious uses. We are asking to rezone the property of Thad Reames, Jr. It's 19.52 acres. The Reames family has owned it since 1978. They use it for pasture land. They also own two of the adjacent properties. What we liked about the Reames' property is you've got 19.52 acres, so we are able to setback almost 1,000'.....984' off of Mt. Holly-Huntersville Road. What we were unable to work with was anything in that area that was a zone that would allow towers, so what we are proposing is not rezoning the entire Reames' property, but just the property we are going to use and this will be a single use. The only use allowed on here will be the cell tower, because we will come in with a 56'x56' area that we'll fence and then we'll come back in around that with an 80'x80' area where we are going to bring in 222 Virginia Pines, 259 Glossy Abelias, 259 Burford Holly's and 74 Acusa Dogwoods, so we are going to landscape the heck out of it. Why are we trying to do it? It's infrastructure. It's 21<sup>st</sup> century infrastructure. We have to be vertical. And when we design the infrastructure the way we design it is so you do not have every provider of infrastructure build their own network, you try to consolidate and you build a facility that has space for all the providers. There are other ways to do it. We wanted to give you just a couple of options to look at and that's what Whitney showed. What we proposed initially was what we call a stealth pole. The stealth pole is just a monopole. What happens is about 2/3 of it will be steel. That's for the structural integrity and about the top 1/3 is going to be fiberglass painted to look like the steel. Why it has to be fiberglass is the signal cannot transmit through steel. With a stealth pole all you see is a pole. The beauty is we are under 200', so you won't see any lights. If say this pole was up about an hour from now, it would be dark, you wouldn't see it. We finish the pole in a gray steel finish. It weathers very quickly. It's non-reflective. Is it invisible? No. But at the top it's 32". Will you see it if you look for it? Yes. When I left my home today that was power lines going to my house. I don't see them every morning I leave. Will you see this the first day it goes up? Yes. Will it become sort of blend in to the periphery? Exactly. Unfortunately in a rural area, we cannot tell the rural area you're rural, you're scenic, so we can't do anything for you. You don't get our infrastructure. If you move to a less rural area, you will get the infrastructure. What we can only do is do our best job in a rural area. How do you do your best job? You find a big piece of property. You come with a pole under 200'. You landscape the heck out of it. You'll never make it invisible, but you do everything you can to minimize. It is something new. It is something different and that's what we can do. We try to minimize. What are we talking about? We are talking about people talking on phones, certainly. It allows people to use a phone on the street or inside their house. More and more folks, particularly over the past couple of years, are doing what we call cord cutting. We are seeing more and more folks going wireless only. And what folks don't like we found is that their wireless phone works on their porch or their yard but not inside the house. That's what we are trying to do. We are an infrastructure provider, however we don't have franchise agreements. We don't have the right to condemn property. What we like to do is come in, put a pole where it can do the most value on cleaning up an existing hole and provide the platform for people who are pretty lively competitors but they know they have to share the pole. They will share the pole. It gives them an extra way to do it. That's all we are trying to do – not to despoil the rural area, but simply to bring 21<sup>st</sup> century infrastructure to it. If there had been a tall water tank on the Reames' property, we would have just put panel antennas on it. That would have been fine. The problem we have trying to design for at least four to six carriers, keep in mind that there's a 10' separation. So one guy will be at 195' and then you drop on down, so there's a diminishing set of returns as they try to connect to your existing network. Now from the carrier's perspective, the last thing they want to do is build a new pole if there's an existing pole, tall building, water tank, they will go on there and get.....because what they are trying to do is provide to their customers. We talked on this last time, but at the end of the day the people that you are trying to serve, which you are doing ably, and the people my industry is trying to serve are the same

people. We are just trying to provide 21<sup>st</sup> century infrastructure. I think we have a good ordinance in Huntersville. If you will look through Section 9.9, it is well written. It lays out the rules. What we found though, in the wireless industry with a lot of these ordinances that were written 10, 12, sometimes 15 years ago they don't allow enough districts for us to really do our best job, so we have to come with a request that I really do not want to be here making a rezoning request. I wish that the Rural district under a set of rules allowed us to do it under those rules. But that is why we are here. We are only here because we can't go in that district, but we are going to try to mitigate it as best we can.

Commissioner Julian said going back to the Christmas tree, that data that is on there, is that just from one carrier?

Mr. Yates said what we did is we went to an independent group, V-COMM and they were going to make themselves available for the final vote, fly down to discuss it further, he was trying to get a base coverage of what was there and versus all those colors to answer what was Mr. Jeter's earlier, you could turn on a phone outside and get some coverage from someone there. What he was trying to show was what we call adequate coverage where if you are inside a residential building with the thicker walls, this is what you get. And then the first thing he showed in the red, what you have right now. The red is what you have right now.

Commissioner Julian said the question I guess.....let me rephrase it another way. One of the organizations that you are representing is AT&T. Is this a representation of what AT&T phones see out there. How about Nextel or Sprint or Verizon. Are there other antennas?

Mr. Yates said typically what you will see is towers are built like this one with space for everybody, so when a need comes out for a tower like this, had there been a tower available Sprint/Nextel in this case or Clearwire would have used it. What it means is there was nothing available that could provide the coverage to them. If there's a tower there, they will go on it, because then they don't have to go through this process. It's very simple, they just apply for what we call a colocation permit through the town, get a building permit and about 30 days later they are broadcasting. This situation comes up when really the base infrastructure is just not there to allow for this. And again that's why we design.....with the stealth pole we can do four, with non-stealth monopole we can do six, so as those people decide to cover this need there's a platform available so if they come to the town and say I think we need to build a tower, Jack and Whitney tell them no you don't, look right there on the Reames' property and they've got extra space for you and they go on and they say thank you because they can then get the process done in 30 days and deliver to their clients.

Commissioner McAulay said I usually don't make comments during the public hearings, but I am on this because I think the picture showing the development.....the rural area there and the houses in Charlotte, which I think we should consider those homeowners our friends because they go to Hopewell school and Long Creek and the other schools up Beatties Ford Road, but what I wanted to point out is that's a bird's eye view of Huntersville. If you go beyond that strip of rural land, there are many homes. There is Westminster Park, which I know people that live on the edge of that, closer to Beatties Ford Road, turn off their phones when they go inside their house because they cannot get any reception. They literally have to go out. And many of the homeowners in Westminster Park are like that. There are three or four schools that would be served by this. Also out in our park areas, out like Latta Plantation, the Raptor Center, Rural Hill and others, they have to go outside if they can get any service at all onto the higher ground. There's a big area out there that can be served that is a recreational area is what I'm trying to say also. Also it's very near, I guess within ¾ mile to the east that we have zoned Corporate Business. In order to get any Corporate Business in there, you are definitely going to have to have some

kind of high technology services. I think that we should also look at this as a service and not just as a zoning because it's at this one isolated place. Also, the long standing Vance Road will go up through that rural area that you said and connect up to the northern part of the northwest corridor where we have under study now. That's not an area that's to remain open space or open fields unless some entity that can afford to keep it like that buys it, in my opinion.

Mr. Yates said it's not just voice to.....if you look at the numbers from your first responders on the volume they receive of 911 calls that emanate from a wireless device. If you are in peril, it would be a lot easier not to have to run inside your house if something has happened to you in the yard, but just to reach on the side of your phone and reach out to a 911 first responder. While wireless is a voice and advanced data, it's all that stuff going on, please talk to your first responders and get a feel from them on how many calls start from a mobile phone to 911 service. And that's what we are providing to that area.

Commissioner Caulfield said could you please bring up that one slide that shows the water tower. I had a question for you. I know you have done projects I'm sure in many different locations. Have you ever done a project where you built something like this to give it a rural feel and then put your tower on top of it.

Mr. Yates said to be honest with you, no, because of the height limitations. When you do a stealth thing like that you are trying to hide something by a big structure. If I took that structure up 195' that water tank would dominate that area, but instead if I have a 32" pole that's painted gray that's not lit at night, it's a lot less of an obstruction. There are devices that people look at.....we have seen in western North Carolina when you have a really good tree cover all around you, you could do like what we call the monopine or a fake pine tree. The key to that, though.....I did one 2 years ago at Montreat but the advantage to that right behind it the mountain went up and there were trees so it could blend it. It's hard to find something that will blend in with these so-called stealth techniques. What we found is just keep it basic, go with the monopole. The monopole is the thinnest. The United States Fish and Wildlife Service actually recommends the monopole as the least effect on natural resources. It's the safest. Just go with it, have the best platform. But when you try to hide it or you get too crazy with things like a church bell tower, you are actually creating more of a visual obstruction than if you just went with a 32" pole.

Commissioner Caulfield said I wasn't suggesting building that 200' by any means. I don't think that's 200' there. One of my concerns is trying to keep the rural feel that's there and sticking with our Community Plan and if there is some justifications to this being a legal spot zoning, for me that would have to take place. I was just saying has your group ever creatively to keep with the feel of the zoning that's currently there and this is a rural area, considered doing something like this with the monopole behind it coming up off of it, that was just my question.

Mr. Yates said I've never thought of that where you put like say a silo in front of it. To be honest, no I've never done that.

Commissioner Julian said I agree with Commissioner McAulay that infrastructure here in Huntersville is what's going to help us carry into the next century and is very important. The mono stealth pole I think is going to be something that Huntersville needs more of in the future. I would like to know where all our existing poles are, whether it be a pole or a co-op pole so that we can make sure that we are not duplicating our infrastructure. That's just one concern. The other thing is I do think that snapshot did not show the residents in the back.

Commissioner Jeter said I have two requests. One is from the petitioner and one is from staff. Going to Commissioner McAulay's as always brilliant points, can you provide an overhead that is a little bit further out to see from the staff perspective.....if we could back that out even further so I can get a better illustration of what Commissioner McAulay is talking about. And ideally going to your point, one of the things I would like to see if possible, a visualization or some sort of rendering of what it would look like at street level. If you were at the street right there, let's say at that intersection looking northbound, what are we really talking about looking at. As you pointed out it's 964'. So what does that look like from the road. If you could get those two visuals, I think that would be helpful.

Mr. Yates said we have the ability to do what we call a photo simulation where we will show the pole – maybe do one or two vantage points to give you a better feel. But yes, I can provide that.

Mayor Swain recognized Planning Board members present: Joanne Miller, Art Van Wingerden, Barry Hester, Joe Sailers, Robert Cameron, Jeff Neely, Hal Bankirer, Bruce Andersen.

Joe Sailers said I need the service in Westminster Park.

Joanne Miller said I would have one of these in my backyard if it would increase my cell coverage, because it's a lot worse now than it was a couple of years ago where I live. And I do live in a rural area without too many houses around me, but I need coverage just as much as people who live in developments.

Bruce Andersen said I asked you this offline, but let me ask it officially here. Have you looked at alternatives that are not speculative investment on your company's part so that you can sell and this indicates four positions.....have you looked at alternatives to allow only one position for example on utility transmission towers. You don't have to answer it here, because it might be detailed.

Mr. Yates said I will have a detailed answer for you at the Planning Board meeting.

Mr. Andersen said to staff, Mr. Yates has told me offline about his interpretation of the law and recent rulings about distributive antennas and what towns can or cannot do. I would like for staff to tell us at the Planning Board meeting more details about that perhaps from the view of the people who are putting up distributive antennas in Huntersville.

Jack Simoneau, Planning Director, said be clear about what type of information do you want from staff on that.

Mr. Andersen said Mr. Yates has indicated a municipality cannot require the use of distributive antennas in lieu of the tall towers.

Mr. Simoneau said just so we are clear the distributive antennas are much smaller, maybe 30', 40', maybe up to 50' tall but you have more of them. These are the type of towers that are colocated, such as that water tank that was shown. It's not 198', it might be 50'. It could be a streetlight, it could be a flag pole, those type of things are permitted everywhere in the town of Huntersville, no matter where it is – Rural, Industrial, Commercial. It's permitted everywhere and there are probably 70 or 80 of those around the town.

Commissioner Jeter said I didn't hear what his question was.

Mr. Simoneau said what I think he was wanting us to do is to say we need to turn this down so that we can force them to one of these small DAS type of nodes, that seemed to be the gist of it.

Mr. Andersen said Mr. Yates indicated that a municipality could not require the use of distributive antennas in lieu of a tower. My question to staff is, is that a correct interpretation of the law.....perhaps that includes Mr. Blythe or we also have a relationship in the town of Huntersville with people who put up distributive antennas. What's their position on it? I would just like to know both sides. I've heard from Mr. Yates. I would like to hear the other side and perhaps a legal interpretation.

Mr. Simoneau said we can talk with Bob Blythe about that. I will just simply say that in the town of Huntersville those distributive antennas, the DAS nodes are permitted by right, so you can just locate them in whatever zoning district you want, so it's not one or the other.

Hal Bankirer said we've seen what is being called the Christmas chart. It's very difficult to do any analysis looking at it that way. It might be better for members of the Planning Board, certainly for myself, to get the inverse of that. What additional coverage on that expanded geographical overview that you are going to be providing Commissioner Jeter.....what expanded coverage is on that above the coverage that exists today.

Robert Cameron said in the staff report one of the reasons the staff is not recommending.....spot zoning request is to maybe other colocation opportunities available and I am not clear what other high structures are available on that road that could have been considered as opposed to building something like a silo.

Mr. Simoneau said we would say that there's not any 200' structures out there. What we were talking about was you can put them on poles – you are just putting them on light poles or you are putting them on electrical poles. When you do that, you have to have more of them so instead of one 200' tower, you might have whips on top of telephone poles is more along the lines of what we were talking about.

Mayor Swain said did you also want to know the properties where it was allowed close by there. Because there were other properties I believe that we had discussed earlier where it was allowed.

Mr. Simoneau said there was.....actually this is by a natural gas area there was a rezoning up in here for a tower. That happened to be I think it was a 140' tower and it happens to be right next to a SP zone and it's also right next to major transmission lines, so in that particular instance it had pretty tall structures right next to it. This site doesn't quite have that. If there were some major transmission lines, I think it was mentioned that they probably would have looked at that alternative.

Commissioner Jeter said I think Commissioner McAulay actually made some pretty compelling points, so I may have changed my tact a little bit, but I did want to point out for Mr. Cameron, he made the point and after hearing Mr. Andersen's question which was brought up offline it sounds like by the petitioner, which gets into legal issues, I wanted to clarify the statement that Planning staff is opposed to the request because of the colocation. That is a secondary issue for the Planning staff, not the primary issue. I think that's important based on the conversation Mr. Andersen brought up. The primary reason that Planning staff is opposed to this is they put in their report to us is because of its impact on the overall character of the area and the spot zoning nature of it. The colocation is a secondary and I would say much lesser issue. I don't want from a legal perspective that to be anyone's thought that was the driver. It's not how the Planning staff recommended it to the Board.

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

**Petition #S11-01.** Mayor Swain called to order public hearing on Petition S11-01, a request by AAC for a Special Sign District for the Bryton Development.

Brian Richards, GIS Administrator, said tonight I'm here to present the special sign district overlay for the Bryton development. At this time I would like to submit the staff report into the record. *Refer to Attachment No. 2.* As we all know, Bryton is a very exciting development here to Huntersville – 428 acres located in the southern part of town adjoining the City of Charlotte. The map here shows all the zoning districts. There's a multitude of them – Special Purpose, Highway Commercial, Transit Oriented Development, Neighborhood Residential and Neighborhood Center, most of which is under the conditional use category. This map here indicates the initial sign package from Bryton. We would foresee in the future some amendments to this due to the nature of the project and the ongoing development. There's four parts to this I would like to highlight. The special sign district is something that allows developers to have a little more flexibility than our standard ordinance. We feel a special sign district for Bryton is definitely warranted and we have had several meetings with American Asset Corporation discussing what everybody's thoughts are and we all seem to be pretty much on the same page. The four highlights I'd like to bring out are about the directory signs, subdivision signs and the directional signs. The subdivision signs and directional signs will be in conformance with our current code. The directory signs which are the large things that you see driving down the street that have all the tenants on there, they are asking for a significant increase in the number than our code allows. Currently our code allows three. That being said, Bryton is such a massive project we need to look at what is in scale. Just for comparison we all know Birkdale Village very well. They have three directory signs. Birkdale Village is 55 acres. Bryton is 428 acres, roughly eight times the size. Eight times three is twenty-four.....Bryton is asking for 25. Staff doesn't feel that's out of the question. I think it's very much in keeping with what the ordinance's intent is. The second thing I would like to talk about is the non-street fronting wall signs. Bryton is asking for 32 sq. ft. of non-street fronting walls for each individually constructed tenant and this is in keeping with the flexibility option of our ordinance. We are in favor of that. I'd like to skip to the fourth request. I got an e-mail from Barry James of American Asset Corporation this afternoon and one of their main tenants, Walmart, has requested some up lighting. They have since removed that from there, so we are going to go ahead and take that out of our staff report. Our fourth point is the non-street fronting wall sign for Walmart. As you can see here with the Walmart development we've got.....here's the main store itself. We have Alexanderana Road to the south. We'll have a new entrance road to the west. A curvilinear road here to the north. This is the wall which Walmart is fronting upon. They have a secondary pedestrian access in this location right here. And we also have the entrance road to Bryton Corporate Center here on the east side. The wall that we are looking at here is this wall right here that is the west facing wall which will be the Walmart's main pedestrian access for their store. Walmart and Bryton are requesting the amount of 452 sq. ft. of signage on there. Typically with our flexibility option, they would be allowed 32 sq. ft. Staff feels that somewhere in the neighborhood of 256 sq. ft. is more appropriate and I'll get to how we came up with this number in just a second. When we looked at developing this site, there's some unique situations here. Walmart has chosen to not front their main entrance on a public street. We had talked to them several times about the introduction of a public street along here which would solve a multitude of issues, one of them would be signage. Throughout the development process they chose not to do that knowing that signage would be an issue later and that's where we are today. Back to the staff recommendation of the 256 sq. ft. We came up with that number with this scenario in mind – if Walmart had chosen to front that on a public street, they could have received 160 sq. ft. of main store signage, 64 sq. ft. of a secondary business i.e. a McDonald's, Subway, something that would be

internalized into there, and also their 32 sq. ft. of non-street front wall. If you add all those up, that's how we came to our 256 sq. ft. of signage. That is a 700 percent increase over what we would allow under the ordinance today and we just feel that's more in keeping of what the intent of the ordinance is as opposed to the 1,300 percent increase that the applicant is asking for.

Commissioner Caulfield said you are taking the main Walmart sign.....the Home Living/Outdoor Living and the Market and Pharmacy and adding those all up to come up with this signage that's on that building.

Mr. Richards said correct. I failed to show this earlier in my presentation. Here we have an example provided to us from American Asset Corporation regarding this. The top image is what Walmart is requesting. Below we have the Northcross Village Shopping Center in which you have the Petco, the Home Goods, Marshalls and Staples. These four stores on the bottom are fronting on a main street. The total square footage of those signs is 398 sq. ft. We have Walmart up there, that would be their parking lot entrance which is their pedestrian entrance, not the street fronting entrance and they are requesting 452 sq. ft.

Commissioner Caulfield said do you know the length of that building.....the Northcross building from Staples down to Petco, how long that is.

Mr. Richards said I measured it one day, I do not recall that. I can find that for you.

Commissioner Caulfield said I would like to have the comparison as to how long that is versus the Walmart one.

Commissioner Jeter said I think it's 570' and 510'.

Commissioner Caulfield said it is 570' for the Staples/Petco and then the Walmart one is 510'. So it's about 60' shorter. So it's roughly about the same. Your recommendation is almost less than half – 256 sq. ft.

Mr. Richards said correct. And another thing that I wanted to mention is the 256' would be based off from our example the non-street fronting signage. Two other stores that we found in Charlotte – two of their newer stores.....they've got the Ikea here – the store that's near the Ikea in the University area, they have approximately 200 sq. ft. of signage on their main entrance sign and the renovated Walmart over on 16 and Mt. Holly-Huntersville, they only have 165 sq. ft. of signage, but we came up with the 256 sq. ft. taking what our ordinance would allow if they had fronted a street plus a secondary business, plus that they would have had non-street fronting, just trying to be as generous as we could and that's how we got to that 256 sq. ft.

Commissioner Caulfield said could you go back to that slide you were just at, the 165 sq. ft. and the 200 sq. ft. Is that just for the one sign that says Walmart.

Mr. Richards said correct. That's all they have chosen to put on that building.

Commissioner Caulfield said that's actually more than what they are asking here. The Walmart sign here is 199 sq. ft. So it's the smaller ones that are adding up to be more.

Commissioner Julian said I noticed we got the rendering of the other two Walmarts. Is there a sign rendering on those buildings at all.

Mr. Richards said I pulled the permits from the county. The Walmart on 16 on the side elevation they have a sign of 27.17 sq. ft. on the side. The other store does not have a side sign.

Barry James, American Asset Corporation, said we appreciate staff's efforts in increasing the sign that's allowed under the ordinance, but we don't agree with that approach. In the ordinance you don't allow for this size building anyway – you don't allow in your ordinance for a main anchor building. You limit your building size at 65,000 sq. ft. therefore the sign and applying the sign ordinance to us doesn't really make sense and that's why we wanted to look at Northcross and how does it compare to Northcross which we did that complied to the ordinance. Really what it does come down to what we call the directional signs into the store, so that if somebody is in the parking lot and they want to go to the grocery portion of the store, they know where to go so they don't go into outdoor living and have to find their way through. We think that enhances the pedestrian experience and contributes to the safety of the customer. That's really why we are requesting this.

Commissioner Julian said for the record I did look through your sign package and was impressed with the materials.

Mr. James said in terms of the materials that we are proposing, we are really modeling it off our Briar Creek project in Raleigh, trying to maintain a high level of material.

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

**Petition #TA11-09.** Mayor Swain called to order public hearing on Petition #TA11-09, a request by Planning Staff to amend Article 8.26 of the Huntersville Zoning Ordinance text in order to raise the maximum light height and allow floodlights in the loading areas of light and heavy manufacturing uses.

Brad Priest, Senior Planner, said I would like to enter the staff report into the record. *Refer to Attachment No. 3.* Again, the Mayor mentioned what we are trying to do with the amendment so I'll go right into what the ordinance requires right now. The maximum height for light fixtures, whether it be on a pole or on a wall is 30'. And in regard to what type of lights are required, these are two pictures of what's called full cut off lights. You look at those lights there and you see that the lighting element, the bulb, is inside and encased in the fixture itself, so there's no light that goes above horizontal. It's all directed pretty much straight down. That's the current requirement that the light goes down, there's no light spillover or there's no light glare and from a commercial standpoint this has worked quite well and we haven't had any problems. But what happened when ABB submitted their commercial site plan, there was a design issue that we ran across. In this area here, this is to the north and over on this side on the west is 115 and here's the bridge coming down here. So on the southern side of the site plan, you see a very large area that's very expansive and it's going to have a loading area, it's going to have maneuvering area for the outdoor storage of the reels and just an overall very busy and active area. That's really not conducive to adding light poles in regard to lighting this area because it's going to create obstacles. It's going to create things to hit and potential safety hazards. The question that ABB came to us with, if you don't allow floodlights and you don't allow higher height, how are we going to light this area here. We agreed to go and look at other ordinances, look at current lighting recommendations and see is our code out of line. Is there something that we can improve upon. Those are the questions. Could we allow a higher height, could we allow floodlights to essentially light this area expansive from the building out and then lights here and shine in to get this light in here. We went

through and looked at several ordinances and we contacted the Planning Advisory Service and looked at other recommending bodies in regard to lighting and what we found was many other ordinances did allow taller lights. Not too much taller, but a little taller. And one of the reasons any that were recommended was because when you allow taller lights you will see on this graphic at the top, there's better light spread and you have more even distribution. When you have a max that's too short, you cap the lights and therefore you are going to require more fixtures and more fixtures require more costs. At the same time you don't want them to be too tall because again when you get tall then you are going to get some spillage, you are going over the property lines and you are going to get some glare. So what we found was the taller of the ordinances, the taller maximum height was 40', so that's what we came up with. We did recommend going taller a little bit on the maximum light height.

In regard to floodlights.....these are floodlights here and again you are taking a fixture and you are shining light into a different location. That's not necessarily recommended in a lot of circumstances because of the glare you get a lot of light spillover when you are not careful with floodlights. So it's not necessarily recommended, but at the same time it's not recommended that they are prohibited because certainly there are applications when they can be beneficial. And again looking at other ordinances, that seemed to be the case, there were floodlights that were allowed but they were allowed with conditions. As you see in the staff report when staff put together the recommendations, we kind of put together a conglomerate of what should be done. Here you see on the left, you see a floodlight that has an angle that's directed over 45 degrees from straight down. And what you will see is there's a lot of light not only going out potentially creating glare, but also light that's going up and so if you have a lot of those floodlights, you are going to have that glow effect over a facility and you can see it from a mile away. In order to keep that from happening staff recommended the language that allows a 45 degree angle keeping that light fixture pointed more of a downward angle and then all the light is where it is supposed to be, at the ground and then not only it saves the light glare but it's also more efficient, you put the light where you want it to be. With that in mind, staff put together the language that Article 8.26 across the board raises the height limit from 30' to 40'. And then in regard to floodlights, allows them in specific circumstances. Again we recommend specific circumstances because like ABB, light and heavy manufacturing uses have a lot of outdoor storage, a lot of things going on the exterior where putting the poles doesn't make sense. But retail, commercial, office complexes, they don't necessarily have that prohibition so to speak. They have the ability to put in maybe some landscape islands where poles can go and those full cut off fixtures that really are recommended and beneficial can be placed there. The floodlight allowance is specifically recommended for light and heavy manufacturing uses, and along with that being shielded and making sure that 45 degree angle is in place. You will notice this one stipulation here.....we recommend they be no higher than 45 degree angle unless it can be demonstrated that off-site glare will not be created due to screening by existing topography, accessory buildings or landscaping. The purpose of that is ABB, because of that very large area even a floodlight from their calculations at 45 degrees is not going to be able to get light to the center of that big area. They said we need it higher than 45 degrees. We said okay, we want to keep the glare out so you can raise it up to a higher angle but you've got to give us something, site angles some type of photometrics that shows us that because of the landscaping you are putting in, because of existing buildings, that glare is not going to be seen from an exterior property. Working with the engineer with ABB, that seemed like it would work and we think that would work across the board for many of the facilities in light and heavy manufacturing across the board, so staff recommended it. David Jenkins is here with ABB to answer any of your questions as well.

Commissioner Jeter said can you go back to the diagram of the special area. The argument is.....where are the dock doors? Where are the trucks coming in.....where is the stuff going.

Mr. Priest said this is the dock area.

Commissioner Jeter said okay, that's the dock door. And where is the outside storage area.....are we talking about these places down here at the very southern part.

Mr. Priest said in the squared area they kind of show you where they are planning to put drying areas.

Commissioner Jeter said the white area in between the one dock door there and these areas.....the position is as I understand it that a 30' tall light centrally located would be detrimental to either truck or forklift traffic.

Mr. Priest said yes, that's what we have been told from ABB.

Commissioner Jeter said that's simply untrue. The idea that a truck driver who is going into that location is going to hit a light pole there is false. If they are hiring forklift drivers that are going to hit a light pole there, they are hiring the wrong forklift drivers. If the trucks are going there and the forklifts are going here, you've got one pole that is going to be 36" based on my previous conversation from earlier tonight. The second issue I have is one of the other things that's predominant in manufacturing facilities is a what we call soft lighting scenario where you don't use a bright light, you almost use a yellow soft lighting. Has that been considered if we allow the 40' tall lighting.....we will allow the 40' tall lighting but they have to use the softer manufacturing lighting that's almost universally used in warehouses today.

Mr. Priest said to get that light in the center.....it hasn't been discussed, but just as a guess looking at the lighting plans that I've seen so far they are very bright lights on the landscaped area going towards the building and on the building. I forget exactly – like 1,000 watts.

Commissioner Jeter said why?

Mr. Priest said to get the light. If you are very soft and you don't have the power, it's not going to go that far from what we have seen. I can let the lighting engineer talk about that.

Commissioner Jeter said the only reason they need the bright light is because of the unwillingness to put a pole, one central pole, that could have potentially floodlights that meet the angle requirements as determined.....so one pole with a section of four 30' lights and a floodlight on it maybe pointing it at certain directions in the center could illuminate all that and we wouldn't have to rechange our ordinance for this development.....if you believe you can put a light in that center location.

Mr. Priest said if you could, there would not be a need for the floodlights.

Commissioner Julian said our old ordinance.....ABB is a new manufacturing company moving to Huntersville. We've been very excited about their arrival but the industrial development, really our code, had not been keyed towards that so by fine tuning this language will allow for the manufacturing and industrial development and help out in the manufacturing of the wire and so forth, so in your mind this change is needed.

Mr. Priest said I believe we think it's appropriate. I think it has worked in other manufacturing and light manufacturing areas but because of the expansiveness and because of the specific needs that light manufacturing and heavy manufacturing can have, that we understand that this could be beneficial.

Commissioner Julian said this is a 24 hour operation, correct.

Mr. Priest said yes.

Commissioner Julian said I take it safety was part of the need.

Mr. Priest said that was a big discussion, yes.

Commissioner Caulfield said Commissioner Julian actually brought it up, my question was going to be are these lights going to be kept on all night long.

Mr. Priest said they will.

Commissioner Caulfield said going to Commissioner Jeter's point of the soft lights versus the very brilliant lights, is there any concern that this is going to create a glow to the neighborhoods around there. I know there's a couple of neighborhoods to the north and to the west. Has there been any studies or research.....what is this going to create if we do this.

Mr. Priest said we tried to incorporate the recommendations from the Illuminating Engineer Society of North America and the International Dark Sky Association. A lot of those conditions that you see in the language are based from those recommendations from those agencies. And so the 45 degree angle, the full shields and keeping those things at a downward angle should take away a lot of that glow. Not only that, but the landscaping will help a lot. If you see here on the landscaping plan, there's going to be a lot of landscaping around there.

Commissioner Caulfield said going to your Dark Sky recommendations, is there anything from the FAA as to how far that angle can be as far as...because I know planes etc. you don't want a spotlight going up into the air. Is there some set requirements that they have as to how far that angle can be.

Mr. Priest said I did not read that. That's not to say it doesn't exist and I missed it, but I have not seen it in the information I've read.

Commissioner Caulfield said he's saying that they want some exceptions to the 45 degree angle.

Mr. Priest said even if it was at the 70 degree, you would still have to have a shield on top and it would still be at a mostly downward angle, but just a little less than 90.

Commissioner Caulfield said so no matter what, there would be a shield on the top.

Mr. Priest said no matter what there would be a shield on top.

David Jenkins, ABB, said I'm the construction manager of this project. Before I get started in some of this I would like to thank everybody in the development department for working with us as we go through this process. Yes, I will say that the immediate thoughts of safety is the definite driver here. In working with our engineers, Brad and Jack have done a great job of evaluating this situation. I would like just to explain how our process works just in short and maybe bring some more magnitude to what our process is with no disrespect to Councilman Jeter. The way this facility works when trucks pass through here, we are going to have of course truck traffic in this area at the docks, we'll also have truck

traffic at a rear dock and that's the two truck passages within our facility. The biggest issue as we do our work out on this operation south is there's going to be when you talk about fork trucks, our fork trucks carry drums that are 50 metric tons, so they are not small fork trucks, they are huge. For example, some of our drums that we do carry are 4.5 meters tall. This is extra high voltage cable. This cable is this big around, so it's not small and that's why safety is such a big issue for us. What we do.....these are heat treatment ovens out to this side as well as there will be a row of 12 more heat treatment ovens here. When we bring the cable out of the facility to begin with, they go into heat treatments which could mean these large fork trucks going through the center of this yard over into this heat treatment. So there is stocking of these on a daily basis as well as the drums that we talk about, this is an empty reel storage in this area. So there will be drums out in this area that will also be transported back into the facility. We have drums being carried here to resupply. We have drums coming out to go into heat treatment. We have drums coming out of heat treatment, moving back in. We also have once we go through the process come into the test facility where we test our cable and then after that it comes out back into finished reel storage in the center of the yard where they will then be loaded onto a truck here. When we talk about space for a pole in the center, that just will not work in a safe environment for us in our operational south. That's just what we would like to have. ABB is a safe company. We want to make sure that in no means we put anybody walking through there or truck driver or forklift driver in harm's way. What I'm technically here tonight for is to put something on record as it applies to the ordinance that is being proposed. We agree with this, but there's one point in here that we do disagree with or at least have concerns over and that being No. 5 emitting glare or light trespass. I think Brad could even reiterate that working with our engineers we feel like that we'll have all these issues solved due to all the landscape buffers as well as structures that would impede light from going beyond the border, that kind of thing. We do feel like we have that under control, but when we put into the ordinance emits glare or light trespass, I think that what I would like to see is that we continue to work with the development group to better identify that and bring that to a resolution other than just the undefined glare or light trespass.

Commissioner Julian said I understand your need for ABB and again feel safety is an important issue. No. 5 is the glare or light trespass. I think that is one of my concerns is that light does not.....if you come out on that view there you will see Old Statesville Road over there. Maybe what we need and I will direct this towards the Planning staff is some type.....I see No. 5 is kind of like a catchall.....some type of light candles. Give me something that is a metric to measure it by. Who is going to determine whether it's emitting a glare or the light is trespassing on there. I would rather see a metric in there that will tell us. Other than that, I understand your need and my only concern is to make sure the light does not disrupt the Old Statesville Road traffic.

Mr. Jenkins said I appreciate that concern and of course we are wanting to do everything we can to keep everything in consideration of the town. Just on that point there's a test tower that is here. Most of these lights that we are talking about would be along this building and would shine out towards off the site. When we talk about 115 these are going to be shielded from that, because this is solid, this is solid. So the only light that would come out from here would be very little because we have our landscape buffers and what not. In our view, the only place that I would think that we would have any type of emittance into or even consideration off of our property would be just this one small corridor there and I'm not sure that will even happen based on some of the things that I've seen on the engineering.

Commissioner Julian said that's internal to the industrial park, so I'm fine there. My concern is Old Statesville. ABB is in the industrial park. As long as the light is captured within the industrial park, I have no problem.

Commissioner McAulay said I noticed that Meacham Road.....Old Statesville Road is over here to the left. All of that.....either trees, vegetation, buildings are in front of it. It looks like to me that you are enclosed.....where your forklifts and your trucks are going to be traveling mostly is internally.

Mr. Jenkins said that is correct.

Commissioner McAulay said it either had landscaping surrounding it or buildings. Is that a correct assumption?

Mr. Jenkins said that is a correct assumption. Not really an assumption, that's a fact.

Commissioner Jeter said while we'll agree to disagree on some items, one of my concerns is this request is not limited to this project. We can sit here and state that it's going to be zoned out 21 all this way over here, but if we approve this, it is town wide and while it may fit this topography, we have no idea if this is going to fit the next topography. If we were talking about a specific zoning to this one area as part of ABB's request, that's a separate item and the illustrations were given and the examples were given on how it's only going to hit this corridor and all this other stuff is fine for ABB but this request before the Board is not about ABB, it's about the entire town. If you are going to allow a 70 degree floodlight angle on a 40' pole which is what this zone will allow us to do, if you are making light or heavy manufacturing, which I'm not real sure how you are going to define that either, it's easy to say it fits well here, but is it going to fit well somewhere else in town. Is it going to fit well over off Kenton Place. Is it going to fit well right there from the old car dealerships. Is it going to fit well near Bryton. That's my bigger concern is the overall ramifications. If we want to do it for this project, then let's take those analysis but this is town wide.

Commissioner Caulfield said going into some of the parking lots of the auto dealers, I know some of those lights are taller than 30'. Do we allow something different?

Mr. Priest said it depends on which car dealership it is, because I think some were before the lighting ordinance. So I'm not exactly sure what lights and when they were approved in the ordinance. Some might be because of that.

Commissioner Caulfield said my question I guess is this, to Commissioner Jeter's point, if we just do a blanket change what zoning areas would this be allowed in where are floodlights allowed.

Mr. Priest said it would be allowed as written for light and heavy manufacturing uses which are allowed in CB and SP and light manufacturing and heavy manufacturing is defined in the ordinance, so they would have to meet those definitions for that to apply to them and it would only be their loading areas.

Commissioner Caulfield said could this be written so that it would be by permit only, so that it could be looked at.

Mr. Priest said a special use permit.....if the Town Board wanted to do that, certainly.

Commissioner Caulfield said if we just did a blanket it might open up a can of worms. If we did it by Special Use Permit, then it might allow us to look at each case. That would be my recommendation.

Commissioner Julian said I was just going to make a statement that No. 5 says not emitting glare or have light trespass onto adjacent streets. That is the protection of all the other properties. Having No. 5 in

there protects.....if this is built somewhere else, then they cannot intrude upon another property. I think No. 5 gives you the enforcement you want to make sure that glare is not coming out.

Commissioner Caulfield said I would disagree. If I had a house next to a place and there was no glare coming in but I could look over and it was brilliant all night long, I would not want that. I think the Special Use Permit would give us a little more safety. I'll let Jack speak to that.

Jack Simoneau, Planning Director, said I just wanted to mention we understand the implications can be large here. That's why we looked at over 15 ordinances, that's why we looked at the different references from the technical engineering side of things and the text amendment that staff has recommended we do feel comfortable with the language that we have. That's not to say we won't need to monitor it, but in this case we know exactly what the topography is, we know the size of the plants that they are planting, we know the wall heights where the lights are shining, we know the angles and we would have to do that as Brad does with every lighting plan that we get. We know how many foot candles, how many feet off the edge of that property. It's very well engineered and we know exactly what's happening in terms of light emittance in these plans. I just want to get on record that we spent a lot of time as a staff discussing that and I can tell you Brad and I pressed very hard to try to understand why there wasn't light poles inside to that and so we fleshed that issue out as well.

Commissioner Jeter said keep in mind that my comments were not directed to staff whatsoever. But as someone whose occupation is this, warehousing and trucking, I disagree with some of the analysis. That has nothing to do with staff. You got that data from others.

Mr. Simoneau said I just wanted to say we asked those same questions to try to understand why they couldn't do that. We feel comfortable that the town is protected and the neighborhoods are protected. There's not a whole lot of places where you have manufacturing right up against residential. We feel comfortable with that, but certainly any changes that you or the Planning Board might want to make can occur up to the decision of the Board.

Commissioner Caulfield said just a follow-up to your point, are you saying that within our process right now you feel we basically have a special use permit because you have to go through and look at each project to determine where they are going to put their floodlights. Say for instance if a dealership was next door to a residential home, would it give you the flexibility to say no you can't do one on this side because you are too close to a residential property.

Mr. Simoneau said you could craft language that is specific to distance to a residential property. We even talked about that. The issue with if you make something a Special Use Permit is you have very defined criteria. They have to do x, y and z.....1, 2, 3 and 4. If they do 1, 2, 3 and 4, you can't deny it because it's a special use that's quasi-judicial so you might think that they might not be at the right location there but if they meet each of the criteria that you have in your ordinance, you would be obligated to issue that permit. Our feeling was if we permit it by right without having to jump through a Special Use Permit with these criteria we're going to still get the same thing and that is protection of the surrounding properties and the street rights-of-way from excessive glare and excessive light. I don't know when staff canvassed these other ordinances if they saw any examples where a standard was set and then if somebody got a special permit they could do something else.

Mr. Priest said no, I didn't see any of those. Not that you can't do it, it's just something we hadn't seen.

Joe Padilla, Executive Director of the Real Estate and Building Industry Coalition (REBIC), said most of the time you probably heard folks from our industry up here talking about things that we don't like and we're actually here to talk about something we do like. This is a good ordinance and we commend your staff for looking at a specific project in this case and just opposing a larger issue that we think is relevant to all industrial and manufacturing projects that might come into Huntersville. What we think is wise is at this point in the economy really to be able to look at anything that might be an inhibitor of job creation and economic growth, anything that might be a hindrance to a business being able to come in and through a by-right zoning be able to develop appropriately. This ordinance is within the context of what other lighting ordinances for industrial properties would allow, so we would recommend that you look at this and with the exception.....and we agree that No. 5 could be much more defined I think is the right word – either quantified by distance to a residential area or possibly foot candles as your staff has recommended, so there are a lot of ways to quantify that. This is a type of evaluation of your regulations that we think is healthy and necessary as an area that continues to try to attract jobs and new employers to the area. We do support it and ask that you consider it favorably.

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

**Petition #TA11-10.** Mayor Swain called to order public hearing on Petition #TA11-10, a request by the Town of Huntersville to modify the Zoning Ordinance, Article 11.4.3.d) 5) and Subdivision Ordinance, Section 6.320 in order to increase the notification boundary for neighborhood meetings and adjoining property owner letters from 100' to 250'.

Whitney Hodges, Senior Planner, said at the Town Board retreat, staff had recommended different ways to condense the development process. In doing so the Board talked about if we condensed that process maybe expanding the notification boundaries. Staff has put a lot of those things into play already and so one of the things that we need to do that actually required a text amendment was to change basically those sections and the references from 100' to 250' and that's all this text amendment is. I do want to enter the staff report into the record. *Refer to Attachment No. 4.*

Commissioner Julian said we have received multiple requests by residents that they didn't hear about a public meeting or a public vote. Hopefully this will help in addressing those issues.

Commissioner Caulfield said I congratulate the staff for coming up with this suggestion. Any time we can allow our residents to know what's going on in the town and in more clear ways, it is always a good thing.

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

#### **OTHER BUSINESS**

**Parks & Recreation Committee Bylaws Amendment.** Michael Jaycocks, Parks & Recreation Director, said the Parks & Recreation Commission has made a recommendation to the Town Board about changing bylaws in Section 3(a) Appointment of Committee members. Currently it reads that each commissioner may be appointed to a term of no more than 3 years by the Town Board of Commissioners and shall be eligible for reappointment to serve only one additional consecutive term of no more than 3 years. They recommended to change that to read Members of the Board should be limited to three consecutive 3 year terms unless waived however may be reappointed after remaining off the board for at least one year. That's identical to what the Planning Board's bylaws are. The reason that they are making this recommendation, the last couple of years we have lost a couple of committee

members who were very active and had served six consecutive years and sat off a year and then they lose interest.

Commissioner Jeter made a motion to adopt amended Parks & Recreation Commission bylaws.

Commissioner Julian seconded motion.

Motion carried unanimously.

*Amended bylaws attached hereto as Attachment No. 5.*

**Appointment to Fill Vacated Commission Seat.** The Board did not take any action.

#### **CONSENT AGENDA**

**Reschedule September Meeting.** Commissioner McAulay made a motion to reschedule the Monday, September 5, 2011 Regular Town Board Meeting to Tuesday, September 6, 2011 at 6:30 p.m. due to the Labor Day holiday. Commissioner Julian seconded motion. Motion carried unanimously.

**Order to Collect Taxes.** Commissioner McAulay made a motion to adopt order directing Tax Collector to collect the taxes charged in the tax records and receipts as required by General Statute 105-321(b). Commissioner Julian seconded motion. Motion carried unanimously. *Order attached hereto as Attachment No. 6.*

**Call for Public Hearing – Petition #TA11-08.** Commissioner McAulay made a motion to call a public hearing for Tuesday, September 6, 2011 at 6:30 p.m. at Huntersville Town Hall on Petition #TA11-08, 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. Commissioner Julian seconded motion. Motion carried unanimously.

#### **CLOSING COMMENTS**

None

There being no further business, the meeting was adjourned.

Approved this the 15<sup>th</sup> day of August, 2011.