

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

**August 3, 2015
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 3, 2015.

GOVERNING BODY MEMBERS PRESENT: Mayor Jill Swain; Commissioners Melinda Bales, Ron Julian, Rob Kidwell, Sarah McAulay, Jeff Neely and Danny Phillips.

Mayor Swain called for a moment of silence.

Mayor Swain led the Pledge of Allegiance.

MAYOR AND COMMISSIONER REPORTS/STAFF QUESTIONS

Mayor Swain

- The MTC did not meet in July.
- National Night Out is tomorrow night at Northcross.
- Taste of Lake Norman is August 6.
- Cindy Alexander will perform at The Pearl on August 7 to benefit a dog rescue entity.

Commissioner Bales

- The Lake Norman Transportation Commission did not meet in July. The next meeting is August 12.

Commissioner Julian

- Commended the Public Works Department for the sidewalk being installed on Stumptown.

Commissioner Kidwell

- The next Olde Huntersville Historic Society meeting is August 5. Dr. Virginia Cornue will be the guest speaker.
- A Scottish Tea Party honoring May Davidson will be held at Rural Hill on August 23.
- Helping Others Help Themselves (H.O.H.T.) will host workshop "How to Have a Killer Interview" on August 25 at the Lake Norman Chamber.

Commissioner McAulay – No Report.

Commissioner Neely

- Attended the Lake Norman EDC Board of Directors with Commissioner Bales on July 23.
- The USTA NC Junior Team Tennis State Championships were held July 17-19. The event brought in 674 players and 92 teams, making it the largest Junior event in state history.
- The Lake Norman Chamber Board of Directors did not meet in July.

Commissioner Phillips

- No report from Arts & Science Council.
- Encouraged everyone to shop local.

Mayor Swain recognized County Commissioner Pat Cotham who was present at the meeting.

PUBLIC COMMENTS, REQUESTS, OR PRESENTATIONS

None

AGENDA CHANGES

Commissioner Neely made a motion to add Item G to the Consent Agenda – Direct the Town Manager to develop a schedule for a workshop for the Town Commissioners to discuss the Torrence Lytle School.

Commissioner Julian seconded motion.

Motion carried unanimously.

Commissioner Bales made a motion to adopt the agenda, as revised.

Commissioner Julian seconded motion.

Motion carried unanimously.

PUBLIC HEARINGS

Mayor Swain recognized Planning Board members present: Bill Walsh, Hal Bankirer and Dan Boone.

Petition #TA15-04. Mayor Swain called to order continuation of public hearing on Petition #TA15-04, a request by the Huntersville Planning Board to amend Article 7.4 of the Zoning Ordinance in regard to calculating specimen tree save mitigation requirements.

Brad Priest, Senior Planner, said this was initiated by the Planning Board, so they have requested to come and just make a statement and give some history on how this application came to fruition.

Hal Bankirer, Planning Board Chairman, said as this is an initiative of the Planning Board, as Chairman I have been asked to make a few introductory remarks prior to the public hearing that follows.

In September 2013 the Planning Board approved a multi-family development to be built in The Park Huntersville. It did so, but reluctantly. The board's reluctance primarily related to the trees slated for removal. The sketch plan called for razing the entire 14 plus acres. That amounted to a total of 582 trees. Of those 582, 47 were specimen trees or trees at least 24" in diameter. Because the applicant decided to remove the specimen trees, the current ordinance requires that the mitigation for those trees is 30 percent of the 47 or 15 trees. The cost of 15 saplings and planting labor could be placed into the Town's Tree Fund for a total of \$2,835 or the developer could plant 15 saplings, young trees that in 20 or 30 years might reach specimen size. The impact of entirely razing the property however was troubling since 535 non-specimen trees were included and not one was smaller than 8" in diameter.

Some had diameters between 20" and 23", just shy of specimen size. The estimated average diameter of these 535 trees was between 15" and 18". You can do the math yourself. We've got 15 2" saplings or 30" of tree to replace 1,200" of specimen trees and about 10,000" of the rest. The Planning Board felt this was imbalanced and continued progress of this sort was not sustainable.

After internal discussions in early 2014, we solicited your interest in considering changes to portions of the Tree Save Ordinance. With your interest, the Planning Board unanimously voted to create the subcommittee to examine the Town's Tree Save Ordinance with an eye towards determining if it was fair, if it contributed to the Town's quality of life and how it compared to other municipalities in Mecklenburg County. As you will see from the presentation that follows, Huntersville has the least restrictive Tree Save Ordinance of all the municipalities in the county and if not addressed, especially as we diligently work to develop and expand our tax base and grow the town, it's possible we will negatively impact the quality of life of our citizens and our land mass. We invested a great deal of time in arriving at our judgment based recommendations. We explored many approaches. We consulted with specialists and experts as well as appropriate national level organizations. We believe the ordinance change is fair to the Town's residents and potential companies and developers alike, better protects the character of our Town, is environmentally sound, and puts Huntersville on track to being a better partner in the region's push to protect its tree canopy. I think you may know that Charlotte's goal is 50 percent.

The Planning Board unanimously recommends its future approval. Before turning to Brad, the board wants to thank those members who served on the subcommittee for the immense amount of time and effort invested in this – Joe Sailors, Janet Spain and Linda Kidd, citizens who were members of the previous Tree Save Subcommittee and who graciously volunteered their time and effort to serve again and provided much needed continuity and direct citizen impact, and Brad Priest of the Planning Staff whose patience, humor and expertise were needed, especially the patience and the humor.

Mr. Priest entered the Staff Report into the record. *Staff Report and Staff PowerPoint attached hereto as Attachment No. 1.* The Staff Report and Mr. Bankirer's comments really kind of set the stage for the background of why we are here in regard to the purpose for the application. I'm going to focus my presentation really on what the proposed amendment would do.....what the change is technically.

Here looking at the screen is the current specimen tree save requirements. It varies based on the zoning district that you are in. For instance if you are in the Rural zoning district, you have a 50 percent tree save requirement or in other words if you have ten trees that are over 24" in caliper and large maturing or 12" in caliper if it's a small maturing tree like a Dogwood or a Red Bud or something like that, then you have to save five of those is what the ordinance says. However, when you can't meet that specimen tree save requirement, you can't meet those percentages, the ordinance has a little special case statement underneath the requirement that says essentially in special cases you can go to the Planning Board and seek approval to essentially contribute to a tree fund bank that pays for the installation of the trees that they take down. And again this is over and above what the ordinance requires. Long story short, what that means is if you are required to save 5 trees and you go over that, you can mitigate the five trees with just five newly planted trees – one tree to one tree.

The Planning Board requested that staff go into a little bit of detail, do some research and find out how other municipalities, how tree organizations in the state and in other areas, calculate the value of a tree. How can we change our ordinance to make sure that we are really calculating what an existing mature tree is worth. Going through the International Society of Arborists, the Urban Forestry Council, the North Carolina Forest Service, the NC Cooperative Extension Service, there really wasn't a consensus.

There was mention of the CTLA (Council of Tree and Landscape Appraisers) method. That was a method that measured the cross-sectional area of the trunk of the tree and had a complex calculation based on the tree, the width, the cost of the tree, what kind of tree it was, the health of the tree. And in looking at that and talking about that method with the Planning Board, it seemed to be a little bit unfeasible to use that in a land development ordinance. One 30" specimen tree using that CTLA method mentioned by the Forestry Council came up to a \$15,000 tree mitigation cost. So that didn't seem feasible in a land development application. In speaking to the Forest Service they agreed and recommended that would be more of when you have a tree in an urban setting and it's part of the community, how do you assess the value of that tree, not necessarily the value of a tree in the woods that's being taken down for development. So they didn't recommend that.

Going to adjacent communities and looking how they measure their mitigation techniques, how they assign value to the trees, you will see from that pie chart there that most of them did it by a caliper method or a DBH – diameter at breast height method. So essentially they would measure the tree at breast height and if it's 30" in diameter they would say okay, the caliper that you take down over the ordinance if it's 30" then you have to replace 30" in some shape or form. That was quite common. Other municipalities did a similar technique but didn't necessarily do the one to one ratio that many did.

With that knowledge we took that back to the Planning Board, shared it with them. As Hal mentioned the committee was formed, we looked at it and drafted some language and now we are in the text amendment application phase. An example of the proposed language would be this, again existing regulation if you remove three 24" caliper trees, those are specimen trees, above the requirements of the ordinance, you are not meeting the requirements of the ordinance, over and above those three you have to replace those three individual trees. The 2" caliper trees we don't assign a cost. There's no statement of a fee in the ordinance. So when we say they can contribute to the tree fund bank, what we are really talking about is them submitting the cost of a 2" caliper tree and the market standard is about \$250. So when you see the money, the dollar sign, in this presentation it's not in the ordinance but it's based on this is the cost from a market value they are going to have to contribute to cover that amount of caliper. So this is the existing ordinance. The new ordinance would change that to a caliper percentage. Going to the caliper to caliper ratio, one to one, the Tree Save Committee thought that those costs were a bit too high, so what they wanted to do was make them a little bit more reasonable, cut them down a little bit, and they came up with the percentage of 30 percent of the caliper of the tree. They thought that was more reasonable. We had Art Van Wingerden of Metrolina Greenhouses on the committee. He gave a development perspective and he thought that the cost of caliper to caliper might be a concern for the development community, so they wanted to reduce that a little bit. So therefore if you had three 24" caliper trees, you would have 72" of caliper. The current ordinance text would be 30 percent of that caliper would have to be replaced so that's 22 caliper inches. And that translates again into planting or contributing for eleven 2" caliper trees.

We did a little graph and compared different facilities that have come into the town and were permitted and they had to come in and do tree mitigation. They went to the Planning Board. This is just an example of what they did pay and then highlighted is the 30 percent and what they would have paid if this language proposed was in place. So ABB you will notice there the three specimen trees \$852. If this ordinance were to be passed it would be \$3,067 in order to mitigate that. And then the Park Huntersville, that's the one that was done right there next to the Earth Fare off of Gilead Road, that new apartment complex which was mentioned, again around \$4,000 was the current ordinance policy and then that would go up to \$14,400.

Just a little bit of background, what we tend to see from Staff's point of view when an application is submitted and we find some nice trees on the site, some nice existing trees, we say what can we do to save these trees. Can we design the site in a way for some creative grading, some engineering that could be done. But they look at the mitigation and if they see all they need to do is submit \$250 for that one nice majestic 60" tree, well the answer becomes quite clear and we lose the incentive perhaps to design in a way that saves these nice mature specimen trees. So from a staff perspective that's kind of how we recommended the approval of this change to try to increase the contribution even if it can't be done like in ABB's perspective, such a big facility, such an intense facility, those trees would have to go. When that's the situation they go, but at the same time there's contribution that significant amount of trees can be planted elsewhere in the community to make up for that loss. So the staff recommended approval of the text as it is now.

Mayor Swain said I just drove back from Connecticut so I drove through Connecticut, Virginia, Pennsylvania, West Virginia, Maryland, New Jersey and in many of the communities where we stopped we were always commenting about the trees because it makes an impression on people from out of state when you drive into a community and see that the community has cared enough to save the trees.

Commissioner Julian said I was just looking through the other town requirements – Cornelius and Davidson and the way the chart reads is right now those towns require 100 percent of the cumulative caliper to be replaced for equal to or greater to, am I reading the chart right.

Mr. Priest said that's correct. That's our understanding is that it's a one to one ratio.

Commissioner Julian said and we are down to 30 percent, that's the proposal is 30 percent.

Mr. Priest said that's correct.

Commissioner Julian said so for Davidson and Cornelius they are at 100 percent.

Mr. Priest said 44 percent of the ones we surveyed were actually at the one to one ratio, 100 percent.

Commissioner Julian said there's a big difference. I go down Gilead Ridge and some of the places where trees have been put in the public spaces and they are starting to mature, they are really looking nice. I think the difference between Cornelius, Davidson and Huntersville is really great. I'd love to see the Board increase that from 30 percent to maybe 50 percent. Even Charlotte has a dynamic you would end up definitely reforesting it or it looks like for a 24" tree there would be two new trees. I think 30 percent is kind of low. I'd like to hear what the Board says about that.

Commissioner Neely said first of all I would like to commend the Planning Board. I know in the almost 5 years that I was on the Planning Board this was discussed on numerous occasions, never any conclusion to the discussion, it continued and now almost 3 years later we do have something and I know it took a lot of time and effort on your part to get here. I certainly appreciate it. I am quite frankly in Commissioner Julian's camp at this point. I think one of our most valuable assets as a community are the trees that we have within our community and while I'm not in favor of moving from where we are right now at a very meager number to a one to one, I also believe that 30 percent is a low number and a low threshold and I would like to see that number moved up from 30 percent.....I don't think it needs to be any higher than 50 percent. I'm certainly open to some kind of discussion, but 30 percent is moving in the right direction. Quite frankly I just don't feel it's enough.

Commissioner Phillips said one of the graphs you had that had the breakdown where it's Rural.....when you've got the Rural at 50 percent and Transitional 35 percent, General Neighborhood and Residential at 10 percent and Commercial and Mixed-use at 30 percent. Wouldn't you think that General Neighborhood – Residential would want more trees than Commercial where they would be a hindrance.

Mr. Priest said the purpose of the transition from 50 to 35 to 10 is based on the intensity of the development. When you talk about Rural, you are going to have very low intensity development. You are going to have more open space and so you are going to be able to save more trees and therefore the requirement would be higher. When you get to Transitional and then go down to General Neighborhood, you're a lot more intense, you allow more houses per acre and then so you are going to disturb more land and you're going to cut down more trees and therefore that's why it shifts the way it does.

Commissioner Phillips said wouldn't you want more trees like in the General Neighborhood than you would in your Commercial. Am I understanding that right.

Mr. Priest said I would say you certainly want as many trees as you can have but when you start to develop intensely you start disturbing a lot more area and that lessens the ability to save those trees and that's why you can't. And I used ABB as the example. With such a big building and the grade having to make a nice flat surface for that, you have to really clear-cut a lot of land, so that's why the Commercial and the Neighborhood Residential, when you have that intense development you're just not going to be able to and that's why there's some relief given in the ordinance. I would say there's relief. They can't save 50 so we can't require that they save 50.

Commissioner Phillips said did you do any kind of cost analysis to find out what a 24" tree is worth.

Mr. Priest said the CTLA method is the only consistent method that we found from agencies that measured the value of a tree, an existing mature tree. But again it was very expensive and the experts that we talked to said that that measuring tool and technique was not really for land development. It was really more intended for urban settings where you have an established tree and what it contributes to the community, not necessarily in an open field and wood setting. There's different opinions on what the value of a tree is.

Commissioner Julian said it's what the specimen is.

Commissioner Kidwell said looking at this you're talking about 30 percent compared to where we are at now. Those numbers speak for themselves. I think that's a great spot to start at. I'm definitely looking forward to more discussion with the other commissioners on this. It's food for thought. When you hear or see that towns like Cornelius and Davidson are saving tree to tree and still putting in a lot of residential development, we need to look at that. I don't know if you are aware or if the Planning Board members are aware of something called Tree Town USA. It's an award given to certain towns whose tree mitigation saving rate is high. Matthews is one of those towns. Just to throw that out there.....it would be nice if we start on that path and eventually get there. I'm not saying get there in one swoop, but definitely get there.

Mayor Swain said it disturbs me to hear that the only value of a tree is what a sawmill will pay because I have logged on treescharlotte.org which is an initiative to expand and protect Charlotte's tree canopy. These are things that we teach our kids in schools and we have for a while, but the benefits from one

tree are significant. And to take from their website trees clean our air, they help with storm water run-off, they reduce our energy usage, they cool the streets, parks and homes and then we have the quality of life issue. If you all read the headlines last week we are always on alert with air quality in this region with the incredible growth that we have with air quality, that's not just a headline, it also pertains to funding for roads and federal funding requirements. The tree canopy links to all of these things and for us to be talking about this and for the Planning Board to take the initiative on this is not just a tree hugger movement here, it's for our community. And for us to ignore that I think would be irresponsible. And I commend you for this because we were ahead of the curve years ago with Janet Spain and that group and we have fallen by the wayside, so it's time for us to come back and I appreciate that.

Commissioner Neely said all of my business career I have always been in favor whenever you are making changes of doing it in phases. I'm kind of catching on to Commissioner Kidwell and where he was. Quite frankly where we are now is an embarrassment. I don't think anyone can defend where we are right now in our tree mitigation, at least not to me. And certainly moving to 30 percent is a quantum leap from meagerness to 30 percent. What I would like to see is that we move forward with the 30 percent with the proviso that it's revisited within 2 years and we look at, if indeed this gets adopted, where we are 2 years later and if it's warranted at that time, then we move forward with another phase. But I think for us to do nothing doesn't say much for us as a community.

Commissioner Julian said Commissioner Neely I'm going to agree but disagree a little bit. By adopting what is in front of us the Rural just went from 50 percent down to 30 percent. I'd like to see the Board start at a minimum of 40 percent. I think 40 percent is definitely still way too low but I think it's definitely a starting place. If you adopted the 30 percent you would be bringing down our ordinance actually for the Rural and other areas. So I'd like to see this Board support 40 percent in the future. The other thing is tree cost. As an enterprising young man back when I was 18 years old I got this wild hair that I heard a walnut tree was worth about \$10,000 and this is really for Commissioner Phillips down there. And so I did some research and the walnut tree was worth about \$10,000 back then. They used it to make paneling. I went about trying to call and see if somebody would give me a walnut tree or let me broker it for them when I was 18. I'm going to tell you no one would give me a walnut tree or let me broker it for them. Where I'm building my new house down on Maxwell has a walnut tree on it. I now have a walnut tree that since I was 18 years old I've always wanted. When it looks at the cost for the specimen of the tree you've got to really look to the use and the cost can be very wide or the tree worth can be very wide. My family laughed at me because I ran up my mother-in-law's phone bill out the roof calling other states, and this was way before the internet, trying to find out about walnut trees but also to buy them. I think 40 percent would be a minimum – still an embarrassment to me to Huntersville to say we are not as good as Cornelius, we're not as good as Davidson, we're not as good as other areas. When developers come in, they come to make money. Don't deny that. And the numbers I saw, ABB we are talking meager numbers there as far as dollars. As you guys know I will not be here this next year but we are as good as Cornelius, we are as good as Davidson and tree canopies are essential to a quality of life.

Commissioner Neely said can you go back to that one schedule that had the percentages and the dollars. What you've got here in yellow is the 30 percent threshold and proposal and 40 percent obviously is right above it, so essentially if we went from 30 to 40 percent on these three different projects, these are the numbers we would be looking at.

Mr. Priest said that's correct.

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

Petition #CODE15-01. Mayor Swain called to order public hearing on Petition #CODE15-01, a request by the Town of Huntersville to amend the Code of Ordinances Chapter 151: Flood Damage Prevention, for consistency with Federal Emergency Management Agency (FEMA) regulations.

Meredith Miller, Planner I, entered the Staff Report into the record. *Staff Report attached hereto as Attachment No. 2.* This request is an amendment to the Huntersville Code of Ordinances, not the Zoning Ordinance. An amendment to the Code of Ordinances is strictly a Town Board function and does not require a Planning Board recommendation. As required we are here tonight for a public hearing. An item will be on the August 17 agenda for final action.

Essentially the changes are requested by FEMA in response to a revision of their flood insurance map, which will become effective on September 2, 2015. The other amendments to this request are minor clerical changes including clarifying some definitions, updating FEMA form numbers, adjusting the floodplain administrator and changing some state agency names. It's critical that these changes are made prior to September 2 for Huntersville to remain a participating community in the National Flood Insurance Program. Staff recommends that the Board approves this item when it comes up for final action on August 17.

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

OTHER BUSINESS

Petition #R15-01. Petition #R15-01 is a request by Ernie and Roberta Lee to rezone 0.53 acres at 15412 Old Statesville Road from Highway Commercial to Special Purpose – Conditional District allowing most SP uses, including a wood cutting operation.

Jack Simoneau, Planning Director, entered the Staff Report into the record. *Staff Report attached hereto as Attachment No. 3.* The Planning Board unanimously recommended approval of this.

Commissioner Julian made a motion in considering the proposed rezoning application R15-01, Lee's Firewood, the Town Board recommends approval based on the amendment being consistent with the 2030 Community Plan. It is reasonable and in the public interest to approve the rezoning plan because with proposed buffers the rezoning will not be out of character with the surrounding area and the property can be easily redeveloped and there is no TIA required.

Commissioner Neely seconded motion.

Motion carried unanimously.

Petition #R15-02. Petition #R15-02 is a request by Chick-fil-A, LLC to update and amend their conditional rezoning plan subject to the current Huntersville Zoning Ordinance, on approximately 1.3 acres located at 16915 Statesville Road.

Brad Priest, Senior Planner, entered the Staff Report into the record. *Staff Report attached hereto as Attachment No. 4.*

Commissioner Julian made a motion in considering the proposed rezoning of Petition R15-02, Chick-fil-A expansion, located on Statesville Road, the Town Board finds that the rezoning is consistent with the

Town of Huntersville 2030 Community Plan and other applicable long-range plans. We recommend amending the conditional rezoning plan for Chick-fil-A as shown in Rezoning Petition R15-02. It is reasonable and in the public interest and allows for faster movement through Chick-fil-A.

Commissioner Phillips seconded motion.

Motion carried unanimously

Commissioner Kidwell said in regards to the parking at the back. In their plan they've got a walkway there. Will three or four spots be put in for the safety of the staff.

Max Buchanan, Public Works Director/Town Engineer, said we've had some discussions and we'll kind of layout some delineated parking on Caldwell Creek.

CONSENT AGENDA

Budget Amendment – Police. Commissioner McAulay made a motion to approve budget amendment recognizing insurance revenue in the amount of \$5,462.05 and appropriate to the Police Department's insurance account. Commissioner Bales seconded motion. Motion carried unanimously.

Budget Amendment – Police. Commissioner McAulay made a motion to approve budget amendment recognizing insurance revenue in the amount of \$500 and appropriate to the Police Department's insurance account. Commissioner Bales seconded motion. Motion carried unanimously.

Budget Amendment – Electric. Commissioner McAulay made a motion to approve budget amendment transferring \$100,000 from Capital Outlay to Other Electrical Expenditures. Commissioner Bales seconded motion. Motion carried unanimously.

Pactiv Electric Service Revision. The initial 10-year electric service contract with Prairie Packaging, now Pactiv, will expire June 30, 2016. At the request of the customer a coincident peak electric rate schedule was developed based on their electric usage, load factor and operating characteristics. This rate will be reviewed annually to be consistent with the original Agreement dated September 8, 2005. The customer has asked that the electric service contract addendum be approved at this time so they are able to appropriately budget for electric costs in 2016. It is recommended that the industrial on-peak electric rate schedule OP-4 be adopted to reflect future electric costs and previous rate schedule HLFLI be closed.

Commissioner McAulay made a motion to approve the Industrial On-peak Electric Rate Schedule OP-4 and authorize the Town Manager to execute the Electric Service Contract Addendum. Commissioner Bales seconded motion. Motion carried unanimously.

Cancel September 7 Meeting. Commissioner McAulay made a motion to cancel the September 7, 2015 Regular Town Board Meeting due to the Labor Day holiday. Commissioner Bales seconded motion. Motion carried unanimously.

CLOSING COMMENTS

None

There being no further business, the meeting was adjourned.