

**TOWN OF HUNTERSVILLE
TOWN BOARD MEETING
MINUTES**

**December 20, 2021
6:00 p.m. – Huntersville Town Hall
101 Huntersville-Concord Road**

PRE-MEETING

The Huntersville Board of Commissioners held a pre-meeting at Huntersville Town Hall, 101 Huntersville-Concord Road, at 5:00 p.m. on December 20, 2021.

GOVERNING BODY MEMBERS PRESENT: Mayor Melinda Bales; Commissioners Dan Boone, Rob Kidwell, Amber Kovacs, Lance Munger, Derek Partee and Stacy Phillips.

Brent Green, Creech & Associates, presented update on New Town Hall Project. *Refer to PowerPoint attached hereto as Exhibit No. 1.*

The updated estimate for building a new town hall is \$14.55 million, which doesn't include soft costs. Approximately \$275,000 has been spent to date on the project.

The Board discussed whether there is a need for a new town hall. Following the discussion, it was the general consensus of the Board to pause the project and direct the Town Manager to gather information on other options (location, efficiency study, storage options, etc.) and report back at the first meeting in June.

There being no further business, the pre-meeting was adjourned.

**REGULAR MEETING
TOWN OF HUNTERSVILLE
BOARD OF COMMISSIONERS**

The Regular Meeting of the Huntersville Board of Commissioners was held at the Huntersville Town Hall, 101 Huntersville-Concord Road, at 6:00 p.m. on December 20, 2021.

GOVERNING BODY MEMBERS PRESENT: Mayor Melinda Bales; Commissioners Dan Boone, Rob Kidwell, Amber Kovacs, Lance Munger, Derek Partee and Stacy Phillips.

Mayor Bales called the meeting to order.

Mayor Bales called for a moment of silence.

Mayor Bales led the Pledge of Allegiance.

MAYOR AND COMMISSIONER REPORTS – STAFF QUESTIONS

Mayor Bales

- Next meeting of the Metropolitan Transit Commission is January 27.
- Toured HAWE Hydraulics, a new company in Huntersville located on Jamesburg Drive.

Commissioner Boone

- Huntersville Fire Department promoted Firefighter John Whitley to Captain.

Commissioner Kidwell

- Next meeting with Huntersville Family Fitness & Aquatics is tomorrow.

Commissioner Kovacs

- Provided update from the Lake Norman Chamber of Commerce.
- Provided update from the Huntersville Regional Chamber of Commerce.

Commissioner Munger

- Wished everyone happy holidays.
- Consider supporting local non-profits.

Commissioner Partee

- Attended a three-day introductory course on government administration with the University of North Carolina School of Government.
- Attended Parks & Recreation Commission meeting on December 15.
- Attended the Christmas toy giveaway at the Huntersville Recreation Center.
- Reminded gun owners to safeguard weapons, especially where children and young adults are present.
- Encouraged everyone to visit website of Cool Kids Clubhouse for information on donating and volunteering.

Commissioner Phillips

- Provided update on Rural Hill events.
- Provided update from Ada Jenkins.

PUBLIC COMMENTS, REQUESTS, OR PRESENTATIONS

BeeJay Caldwell, 14215 New Haven Drive, said the white wooden structure located at 508 Dellwood Drive in Huntersville, North Carolina was built as a public school between 1920-1925. It is one of six historically significant remaining Rosenwald Schools for black children in the state that shows evidence of human interaction with the physical environment. The money to build the school came from the Julius Rosenwald Fund, Mecklenburg County and residents who provided labor and/or matching funds. For the past 20 years, this building has been a favorite rental of residents who live in homes surrounding it.

This past summer, the previous governing body approved the selling of the Blythe Building and relocating the early childhood program that was held there to the Rosenwald School Campus. Immediately, the move of this program to the campus put a stop on the site being available as a rental. This was, and still is, a major shock to those who attended it and those who valued it as a rental.

A report was sent to the mayor and commissioners detailing the affect their decision was having on residents. Many said it showed insensitivity towards individuals who have a special love for this historic site and they were requesting them to revisit their decision and perhaps create a rental use compromise of the building.

As of today, one governing official from the town reached out to me. Recommendations were submitted but there has not been a written response. It is my understanding that elected officials are not mandated to respond to every report they receive. But as elected officials, that is what some do.

In the coming year, I will resend a revised edition of the report to the mayor and board members with the anticipation of a written reply from them or town staff to acknowledge their having received it.

Written comments attached hereto as Exhibit No. 2.

AGENDA CHANGES

Commissioner Phillips made a motion to adopt the agenda as presented. Commissioner Partee seconded motion. Motion carried unanimously.

PUBLIC HEARINGS

Birkdale Commons Parkway ROW Abandonment. Mayor Bales called to order public hearing on three (3) street right-of-way abandonments along Birkdale Commons Parkway within the Birkdale development. Staff requests public hearing be continued to January 18, 2022, and as a result of continuance, update the Resolution of Intent to reflect the new public hearing date.

Commissioner Munger made a motion to continue public hearing to January 18, 2022 and update the Resolution of Intent to reflect the new public hearing date.

Commissioner Partee seconded motion.

Emily Sloop, Town Attorney, requested the motion include the location of the public hearing.

Commissioner Munger amended his motion to include the public hearing will take place at Huntersville Town Hall.

Commissioner Partee seconded amended motion.

Motion carried unanimously.

Updated Resolution attached hereto as Exhibit No. 3.

OTHER BUSINESS

Petition #SUP21-05. Mayor Bales called to order evidentiary hearing on Petition #SUP21-05, a request by Chris Wilson on behalf of Sharon Kennedy of Parcel ID #01703222, to allow solar panels on the front roof slope of the home.

Mayor Bales said quasi-judicial hearings are evidentiary in nature.

Only parties with standing including the applicant, property owner, local government and individuals who can show they will suffer special damages have the right to participate fully in the hearing. Special damages must be particularized separate and distinct from damages to the public at large. Special damages are a fact specific inquiry. While proximity may bear weight in the determination of special damages, proximity in and of itself is insufficient to grant standing. Parties may present evidence, call witnesses and make legal arguments. Other individuals may, but are not required to be, allowed to speak as a witness; however, they will not be allowed to participate fully as a party, such as by questioning other witnesses, or by calling other persons to testify.

Witnesses must swear or affirm their testimony. General witness testimony is limited to facts, not personal preferences or opinions.

Certain topics require expert witnesses including projections about impacts on property values and traffic impacts. Individuals providing expert opinion testimony must be qualified as experts and provide the factual evidence upon which they base their expert opinion. Mere conclusory testimony lacking the foundation of the expert's opinion is insufficient to establish the existence or nonexistence of a fact or conclusion.

The Board must base quasi-judicial decisions upon competent, material, and substantial evidence in the record.

Competent evidence is evidence that is sufficiently trustworthy and reliable, and that is legally fit and acceptable for consideration by the Board. Speculative, irrelevant, or vague evidence; non-expert opinions as to something that requires an expert; and non-expected hearsay evidence will likely not be competent evidence.

Material evidence is evidence that shows that the standards will or will not be met.

Evidence is substantial if it is relevant and regarded by a reasonable person as sufficient to support a specific conclusion. Speculation, unsubstantiated fears of the community, or vague assertions do not constitute substantial evidence.

Quasi-judicial hearings are constrained by the standards in the ordinance and the facts presented. Even though the Board may hear other evidence if it is not objected to, the Board should rely on competent, material, and substantial evidence in making its decision.

The Board will recognize the applicant as a party, as well as the property owners if different from an applicant. Are there other persons who believe they have standing to participate fully as a party?

There's no one here with standing or without.

Will each party tell me the witnesses they intend to call. Do you all intend to call any other witnesses.

Jack Simoneau, Planning Director and Jason Farber, Planner I, said no.

Are there other persons who don't qualify to be a party but who would like to testify. The answer is no, there's no one here.

The parties to this case are entitled to an impartial Board. A Board member may not participate in this hearing if she or he has a fixed opinion about the matter, a financial interest in the outcome of the matter, or a close relationship with an affected person. Does any Board member have any conflicts of interest to offer at tonight's meeting?

We see none.

The parties in this case have rights for any ex parte communication to be disclosed. Ex parte communication is any communication about the case outside of the hearing. That may be email communications, as well as conversations with parties, staff, or the general public. Does any Board member have any ex parte communications to disclose?

Seeing none, I'd like to call on Planning staff for the presentation of their Staff Report.

Mayor Bales swore in Jack Simoneau and Nathan Farber.

Mayor Bales said do we have the applicant here? We do not, do we?

Nathan Farber, Planner I, said I do not see him here. Before we start, I'll submit my Staff Report into the record. *Staff Report and Staff PowerPoint attached hereto as Exhibit No. 4.*

Quick background, minor solar energy facilities on a residential property are allowed within the town. In this case any solar panel that is on the front sloping roof requires a Special Use Permit. That is also required if it's on the front façade.

This request is by Chris Wilson on behalf of Sharon Kennedy for the property at 10545 Mt. Holly-Huntersville Road. This is an overview of the area. As you can see, it's off of Mt. Holly-Huntersville Road towards the right of the screen and the property itself is off the common drive. This is an overhead of the property. You can see the property is fairly wooded and secluded from their neighbors. This is the site plan with the location of the solar panels on the roof itself.

Staff recommends approval based on the findings in the Staff Report. The Planning Board motion for approval is on the screen as well.

Commissioner Kidwell said I believe North Carolina General Assembly recently passed a statute that we need to address going forward.

Emily Sloop, Town Attorney, said 160D-914, yes.

Commissioner Kidwell said that's basically saying applicants won't have to come to us in the future for this.

Ms. Sloop said staff is in the process of updating text of this section to comply with 160D-914 and remove this as a quasi-judicial matter.

Commissioner Boone said if the applicant comes in here late, is he going to be sworn and be able to participate or are we just going to move on without him.

Ms. Sloop said if the Board chooses to delay, you can wait to see if he comes or you can move forward without him.

Mayor Bales said just to be clear, the Board can make a decision to move forward, whether it is to approve the Special Use Permit or to deny it.

Commissioner Boone made a motion to approve Special Use Permit #SUP21-05, Solar Panels for 10545 Mt. Holly-Huntersville Road. We, the Town Board, find the request meets all required conditions and specifications, is reasonable and does not pose an injurious effect on the adjoining properties and finds the character of the neighborhood or health, safety and general welfare of the community will be minimized. This decision is supported by the following findings: (1) the solar panels are not considered rooftop equipment, thus screening and architectural requirements are not permitted; (2) the roof panels will have an anti-reflective coating and the placement of the solar panels on the front roof slope is not visible for the adjacent property owners; and (3) the applicant and staff have agreed to obtain all applicable permits.

Commissioner Kidwell seconded motion.

Commissioner Munger said on the "solar panels are not considered rooftop equipment thus screening and architectural requirements are not.....," you had said permitted. I believe you meant required.

Commissioner Boone said give me one second as I read. Are not permitted is my motion. That's Point 1 of the finding of facts.

Commissioner Munger said that works.

Mayor Bales called for the vote to approve Petition #SUP21-05.

Motion carried unanimously.

The staff will draft, and I will sign, a final written decision to reflect the vote and reasoning for this decision. Thank you to everyone attending the hearing regarding this special use permit. We welcome you to stay for the other items on the agenda and if you are leaving, please do so quietly at this time.

Sesquicentennial Celebration Planning Committee Appointments. Commissioner Phillips said this started months ago and it has been unfortunate it has taken this long. The new Board members inherited this and I think their valid concerns have been heard. To respect my fellow Board members, I would like to make a motion to amend the Bylaws for the 150th Anniversary Committee to change the eight quadrant members in Section 2 to at-large members. I'm not going to speak for others, but there were concerns that this was setting a precedent that could hinder our town in the future, so I listened and I hope that we can all respectfully agree on this.

Commissioner Kidwell seconded motion.

Mayor Bales called for the vote to amend the Bylaws.

Motion carried unanimously.

Amended Bylaws attached hereto as Exhibit No. 5.

Commissioner Phillips made a motion to temporarily suspend the Rules of Procedure for considering appointments to the Huntersville 150th Anniversary Committee. There has been some general consensus and something that has been discussed previously was voting on these memberships and the reason to suspend the rules is that we are never voting against the citizen, which is something that has been problematic in the past, because we appreciate everybody that has applied and therefore by doing this we are able to vote for people and never against the people who have willingly offered to serve our community.

Commissioner Kovacs seconded motion.

Motion carried unanimously.

Commissioner Phillips said the general consensus was that we would appoint the following members:

At-large Members: Eric Rowles, Samuel Harper, Sarah Banks, Julia Rogers, Shawn Caldwell, William Walter, Taylor Brock Hutto, Beverly Mitzel.

Business Representatives: Carmen Cousin, Cayley Mullen, Sam James, Denise Kasper.

Non-profits: Jessica Bustamante, Kathy Jones, Joseph Reale, Sr., Beatrice King.

Public Safety: Bill Suthard, Amelia Burnette.

Parks & Recreation Commission: Ash Munro.

Public Art Commission: April Dunn.

Non-voting Members: Janet Pierson, Kim Strickland

Commissioner Partee seconded motion.

Commissioner Kidwell said I appreciate the fact that we take a poll of who we are supporting so that we are not voting against any individual from the Town and a lot of people that I have chosen through their willingness to step up to this were named. I'm not going to vote in favor of this. I firmly believe we need to do that at the dais. It might take longer. It might make people feel uncomfortable, but I believe in being open and honest of who we are supporting and why we are supporting them.

Commissioner Munger said I appreciate everyone who went ahead and signed up to be on this committee. There's a number of great applicants. Whoever will end up on this committee will do an exceptional job, I have no doubt. My hesitation or the reason why I will probably vote no is that I had chosen 16 names on the quadrant and business and non-profit. Of those, six of those didn't make the list. I understand we try and come to a consensus, I'm just not in that consensus, so I can't in good conscience vote for this current proposed board.

Mayor Bales called for the vote to appoint members as presented.

Motion was tied – Commissioners Phillips, Partee and Kovacs in favor; Commissioners Boone, Munger and Kidwell opposed.

Mayor Bales voted in support of the motion.

CONSENT AGENDA

None

CLOSING COMMENTS

Commissioner Kidwell wished everyone happy holidays.

Mayor Bales wished everyone happy holidays.

There being no further business, the meeting was adjourned.

Approved this the 3rd day of January 2022.