

MINUTES
SPECIAL BOARD OF COMMISSIONERS MEETING
JORDAN ROOM, MATTHEWS TOWN HALL
SEPTEMBER 14, 2015 – 5:30 PM

PRESENT: Mayor James Taylor; Mayor Pro Tem Kress Query; Commissioners George Fossett, John Higdon, Chris Melton, Jeff Miller and John Ross; Town Attorney Charles Buckley; Town Manager Hazen Blodgett; Assistant Town Manager Jamie Justice; Communications Director Jen Thompson; Town Clerk Lori Canapinno

ALSO PRESENT: Levine Senior Center Board of Directors President Roland Bibeau; Executive Director Dahn Jenkins

The Board met for discussion on the Levine Senior Center (LSC). Board of Directors President Roland Bibeau and Executive Director Dahn Jenkins discussed the LSC's financial status, explaining that financial challenges have caused the Board of Directors to seek partnerships for additional funding. The Town, among other organizations, is being asked to support the LSC. The most significant financial burden is the property's monthly mortgage payment. If the Town could relieve that pressure - by paying off the mortgage or purchasing the property - the center could continue to operate and perform its needed activities. The center is viable and profitable from an operations standpoint.

Discussion ensued regarding the Town's possible options. The Board directed Town Manager Hazen Blodgett and staff to move forward and perform due diligence, gather information regarding the Town's options and review the LSC's financial and facility documents for further discussion on October 12.

MINUTES
BOARD OF COMMISSIONERS MEETING
HOOD ROOM, MATTHEWS TOWN HALL
SEPTEMBER 14, 2015 - 7:00 PM

PRESENT: Mayor James Taylor; Mayor Pro Tem Kress Query; Commissioners George Fossett, John Higdon, Chris Melton, Jeff Miller and John Ross; Town Attorney Charles Buckley; Assistant Town Manager Jamie Justice; Town Clerk Lori Canapinno

ALSO PRESENT: Parks, Recreation and Cultural Resources Director Corey King; Public Works Director CJ O'Neill; Planning Director Kathi Ingrish; Senior Planner Jay Camp; Planning Board members Chair Steve Lee, Members Barbara Dement, Mike Ham, Gary Turner and Eric Welsh

REGULAR MEETING CALLED TO ORDER

Mayor Taylor called the meeting to order at 7:00 pm.

INVOCATION

Reverend Larry Whitley rendered an invocation.

PLEDGE OF ALLEGIANCE

Members of the Fire & EMS Department Honor Guard presented the colors and led the audience in the pledge.

ITEMS TO BE ADDED TO THE AGENDA

None

RECOGNITION OF EMPLOYEE OF THE YEAR JIMMY MENGEL

Mayor Taylor recognized Fire & EMS member Jimmy Mengel. He initiated a reading program with students at Crown Point Elementary School. The program encourages children to read books, and the students collectively read more than 1,600 hours. Top readers won the chance to ride fire trucks to school. Marybeth Kubinski, Special Events Facilitator at Crown Point Elementary, spoke of the students' excitement about the program and how they look forward to continuing it. It will continue on a quarterly basis.

Mayor Taylor noted that it's a tremendous program and he thanked Mr. Mengel for his work.

RECESS REGULAR MEETING FOR PUBLIC HEARING ON PETITION TO AMEND THE ZONING ORDINANCE OF THE TOWN OF MATTHEWS

Motion by Mr. Melton to recess the regular meeting for a public hearing. The motion was seconded by Mr. Ross and unanimously approved.

Planning Director Kathi Ingrish introduced members of the Planning Board in attendance: Chair Steve Lee, Members Barbara Dement, Mike Ham, Gary Turner and Eric Welsh.

Application 2015-631/PetSuites: To change the zoning from B-H to B-D(CD) on that certain zoning district located at 11325 Independence Boulevard and being property belonging to Armors, Inc., and further being designated as Tax Parcel 215-101-03, to allow for a commercial kennel.

Senior Planner Jay Camp summarized the proposal. This approximately three acre site sits along Moore Road just behind Pizza Hut. It is currently zoned B-H and the applicant seeks to rezone it to B-D(CD) for a commercial animal clinic. This hearing was continued from August 10. There were some items of concern which have since been addressed: the outdoor kennels/runs are about 200-250 feet from the nearest apartment buildings across the street. Clarification was added so the animals can be located outdoors only between the hours of 6:30 am and 8:00 pm. A note was added which states that Highway 74 access may be eliminated in the future. Trash pickup is limited to between the hours of 7:00 am and 6:00 pm. A proposed property line between the subject site and the adjacent feed store needs to be finalized. The applicants are still working on the property line issue. Finally, the applicants have proposed extending the privacy fence along the outdoor run area to the front of the dumpster to further screen that area.

Outstanding items include the following: a note should be added to clarify that the proposed new lot line with the feed store will be added within a certain timeframe after completion of the zoning action to ensure the subdivision takes place so that the area is in conformance; the site plan should be clarified to indicate the portion of the site that will be sold to the feed store will retain its B-H zoning; a note should be added to clarify how the owner will handle the encroachment of the parking spaces on the north side of the site; curb and gutter should be provided along Moore Road per minor thoroughfare design standards; and the site plan should be revised to indicate an eight foot planting strip with a five foot right of way dedication rather than a thirteen foot planting strip as it is currently depicted.

A question was raised at the last meeting regarding the building materials used. The applicant has proposed to replace the stone water table at the bottom of the building with masonry or brick.

Applicant representative Mark Fee, 3721 Ivy Hills Boulevard, Cincinnati, Ohio, addressed the Board. He has spoken to the client and architect and explored options and they determined it would be best to place a 3.5 foot tall brick wainscoting on the bottom of three sides of the building. The fourth side is rear of the building and is screened by a seven foot privacy fence. The look and feel of the building is very important to the client, and while they're open to minor modifications they really want to keep the white building with the green roof as depicted in the application. The metal is a reverse panel that gives it a board and batten look. It's a nice quality finish. The metal is more durable and looks great and holds up much better with the amount of cleaning and hosing that occurs in this type of facility.

Mr. Melton asked if the applicant has a full understanding of the plans to eliminate Highway 74 access in the future. Mr. Fee stated they have spoken to staff and NCDOT and the client understands the issue. There is an alternative access point to the site.

Mr. Query said he'd prefer at least 60% brick and said metal buildings don't stand up to the test of time like brick or masonry buildings. Mr. Fee noted that there is a lot of maintenance, washing and hosing that occurs both inside and outside the building and the metal structure holds up much better in those circumstances. Mr. Query stressed his preference for a cementitious product on the building because it will hold up better and asked the applicant to reconsider that.

Mr. Higdon said he didn't object to it but the 3.5 foot tall wainscoting looks odd to him. Mr. Melton asked about the cupolas and Mr. Fee explained they're part of the company's newest design. They're clear glass windows with a small light inside.

Mayor Taylor opened the floor to public comment. No one spoke in favor of or opposition to this application. The application will be reviewed by the Planning Board on September 22 and will come back to the Board of Commissioners on October 12.

Application 2015-633/Windsor Professional Center: To change the zoning classification from Conditional to O(CD) on that certain property designated as 9701 and 9709 and 9715 Northeast Parkway and further being designated as Tax Parcels 193-431-25, 31, 32, 33, 34, 35, 36, 37 & 38.

Mayor Taylor noted the requirement for Commissioners Query and Fossett to be excused since they both have an interest in property that is part of this application. Motion by Mr. Higdon to excuse Commissioners Query and Fossett due to their conflicts. The motion was seconded by Mr. Ross and unanimously approved.

Mr. Camp explained that the site is currently zoned Conditional. It is the Town's policy to rezone these old Conditionally-zoned sites to current zoning categories and staff has been working with the property owner for some time to get this done. The applicant is also proposing two additional buildings and staff is supportive of the

request. The site was last rezoned in 2003 and was zoned for up to 30,000 square feet of office space. Only two buildings were built and the owner proposes two additional building pads.

Due to parking requirements, up to 26,400 square feet of the total area of the six buildings can be devoted to medical office space. The applicant proposes all uses within the Office district as allowed. The primary building exterior would be brick and utilities would be screened from view along Northeast Parkway.

Mr. Camp noted an outstanding issue: the PCO concept plan approval will be required prior to the Board of Commissioner's decision. He explained that a previous issue regarding windows and gables has been corrected with the applicant's new building elevation which shows full sized windows and gable structures to match the two buildings on the frontage.

The existing vegetative buffer behind the existing buildings will be replicated with a thirty foot undisturbed buffer for the new structures. The existing storm water pond will be resized to accommodate the new buildings.

Mr. Ross asked about the plan for only one driveway and questioned if there would be any trouble with police or fire access. Mr. Camp said it is really the only possible access and that there were no concerns received from staff regarding public safety issues. He noted that the Town prefers as few curb cuts as possible. Mayor Taylor agreed, explaining that the Board intentionally limited the site to one shared driveway during the last rezoning action in the early 2000s. Mayor Taylor asked if the new building was intentionally placed closer to the road front. Mr. Camp said it is a little closer but it does meet the required thirty foot setback for the Office zoning designation.

Applicant representative Tameka McCleary, 1106 Austin Hills Drive, Charlotte addressed the Board. She works on behalf of the Carolinas Metro Realty, the HOA management firm for this community. The turn in the market allows for the potential addition of two buildings. They believe the proposed buildings will fall in line with what is already in place and there will be minimal impact to the neighboring communities.

Planning Board Chair Steve Lee asked if changes in signage were proposed. Ms. McCleary said they will probably address that in the future but they need to get through the rezoning application first.

Mr. Melton noted the condition regarding utilities being screened from view and requested that the HVAC/air conditioning equipment to be painted the same color as the adjacent brick so they blend in and Ms. McCleary agreed to that. Mr. Miller said he didn't want to essentially stare at utilities or air conditioning units and Ms. McCleary agreed. Mayor Taylor asked where the utility units be located and Ms. McCleary said they'd be the same as the existing buildings – on the side facing Northeast Parkway. They'd be painted to blend in and then screened with trees.

Mayor Taylor asked about uses in the Office district, saying he'd like to keep consistent with the existing buildings. If any uses have been struck for those he'd like the applicant to replicate that for the proposed structures.

Mayor Taylor opened the floor to public comment. John Urban, 2523 Macie Glen Court, Matthews asked if it would be possible to ask the applicant to paint the existing buildings but Town Attorney Charles Buckley explained that was outside the scope of the rezoning application.

The application will be reviewed by the Planning Board on September 22 and will come back to the Board of Commissioners on October 12.

Motion by Mr. Ross to readmit Commissioners Query and Fossett to the meeting. The motion was seconded by Mr. Melton and unanimously approved.

Application 2015-634/Christ Covenant Church: To change the zoning classification from R-15 to R/I on that certain property designated as 419 Covenant Church Lane, being property belonging to Christ Covenant Church and further being designated as Tax Parcel 227-026-05.

Mr. Camp explained this site is zoned R-15 and the request is to rezone it to straight R/I with no conditions. The site is 1.13 acres and technically does not have right of way frontage, just the Town's community garden.

Mr. Camp noted there had been some questions raised about construction activity on site. This is part of the Christ Covenant Church campus and there are several ongoing construction projects which have already been approved by staff.

Applicant representative Brian Schoeck of Johnston, Allison and Hord, PA, 1065 East Morehead Street, Charlotte addressed the Board. He further elaborated on the previously-approved construction and explained that the rezoning application has nothing to do with the construction activity. Town Manager Hazen Blodgett clarified that there had been some concerns raised regarding land disturbing activity but that it was an internal communication matter and the applicants have not done anything improper.

Mayor Taylor opened the floor to public comment. No one spoke in favor of or opposition to this application. The application will be reviewed by the Planning Board on September 22 and will come back to the Board of Commissioners on October 12.

RECONVENE REGULAR MEETING

Motion by Mr. Query to reconvene the regular meeting. The motion was seconded by Mr. Ross and unanimously approved.

PLANNING AND DEVELOPMENT BUSINESS

REPORT FROM PLANNING BOARD

Minutes from the August 18, 2015 Planning Board meeting were submitted (Exhibit #1 hereby referenced and made a part of these minutes).

PUBLIC COMMENT

None

CONSENT AGENDA

- A. Approve Minutes of the August 24, 2015 Meeting**
- B. Endorse Constitution Week Proclamation**
- C. Approve Request to Solicit Donations on Behalf of the Muscular Dystrophy Association**
- D. Approve Tax Refunds**
- E. Accept Zoning Applications and Schedule Public Hearing Dates as Follows:**
 - 1) 2015-635, Matthews Center Associates/Pike Nursery; Devore Lane off Northeast Parkway and NC51, from O(CD) to B-1(CD); Set Public Hearing for November 9, 2015**

- 2) **2015-636, W Browning; 608 Lakenheath Lane, from R-20 to R-15; Set Public Hearing For October 12, 2015**
- 3) **2015-637, J Carmichael; Text Amendment to clarify Building Bulk and Massing in Downtown at 155.504.1.C.3.b; Set Public Hearing for October 12, 2015**
- 4) **2015-638, F Williams; Text Amendment to allow reduced side yards in I-1 District at 155.604.2; Set Public Hearing for October 12, 2015**

Motion by Mr. Miller to approve consent agenda items A through E4. The motion was seconded by Mr. Melton and unanimously approved.

UNFINISHED BUSINESS

DISCUSS COMMUNITY GARDEN IN PARK AT HIGHWAY 51

Parks, Recreation and Cultural Resources Director Corey King explained that an item from the 2015 Planning Conference to do list was the implementation of another community garden by the spring of 2016 at the future park at Highway 51. The question has been raised regarding the desire to move forward with a master site plan for the future park; staff would like the Board to clarify if it would like to move forward with the garden before the site plan has been completed.

Mr. Miller prefers option 1 – to construct the community garden by spring of 2016 with the knowledge that it may need to be relocated once the master park plan is instituted. He suggested that staff expertise could be used to site the garden as best possible with the current site conditions. Mr. Melton agreed, saying that there is a need for the garden now while the master plan is being worked out. It would be a waste to let the land sit unused in the meantime. Mr. Higdon agreed and added that he hopes the garden can be located properly now so it doesn't have to be relocated in the future. The master plan could be built around the garden. Mr. Ross agreed and suggested starting the garden and revising the master plan simultaneously with internal expertise to refine the existing plan into something that is more appropriate. More community meetings and public input could be requested if necessary. Mr. King noted that the existing master plan did incorporate public input and can be used as a base for further refinement.

Mayor Taylor asked about current demand for community garden space and Mr. King explained there are currently eight residents on the waiting list. Mayor Taylor agreed with previous comments about not moving the garden in the future, and said it would be acceptable if that mean it might take more time to find the right location.

There was some discussion of the options. Mr. Query expressed concern about the location, saying that it would be better for the garden to be visible from the road. Mayor Taylor expressed concern about placement of the garden too close to the neighboring homes. He said the Board should have final say on the garden placement.

Motion by Mr. Miller to move forward with option 1 to construct a community garden within the future park at Highway 51, and for staff to bring back a conceptual drawing with details on potential locations, parking, number of garden parcels, etc. for final approval by the Board on October 12. The motion was seconded by Mr. Melton and unanimously approved.

NEW BUSINESS

CONSIDER CHANGES TO DISCHARGE OF FIREARMS ORDINANCE

Police Chief Rob Hunter explained that from time to time there are questions about this process, so the Board is being asked if it wishes to change the ordinance in any way. The ordinance was changed to include the permit requirement for the discharge of bows and arrows in 2009. Prior to that date, the last application had been received 22 or 23 years before. Since then, the Town has received 6-8 permit applications annually. Not all of them rise to the level of Board review due to staff concerns with safety on the proposed site. When staff prepares these applications for Board consideration, they review whether or not the discharge can be done safely under the constraints indicated by the department. Staff recognizes the possibility that people could discharge outside of the listed conditions, which would be a violation of the ordinance.

There are always questions about safety and the purpose of the permits that are issued. Although that is not a factor in the Board's ultimate decision, it is known that some are for hunting, some for target practice and some for both. The Chief noted that target practice probably happens in town more often than staff is aware, and they will be more diligent about communicating the ordinance requirements to citizens to ensure people are aware of the requirements.

There are four possible options: 1) the ordinance is not changed and the Board reviews each application on a case by case basis; 2) permit issuance is returned to the discretion of the Police Chief; 3) remove "bows and arrows" from the definition of "firearm," which would mean that the discharge of bows and arrows would be unregulated; 4) prohibit the discharge of all firearms, including bows and arrows, within town limits.

Mr. Miller said one of the main arguments he's heard for culling the herd is the danger of car wrecks due to deer hits. He said bows and arrows are less accurate and less lethal than hunting with guns so the animal can run for some distance, and noted that many locations in the Town of Matthews recently earned the distinction of "Certified Wildlife Habitat" from the National Wildlife Federation. He finds it ironic that there are so many certified wildlife habitats and yet people are killing deer. He prefers leaving the ordinance and process unchanged. Mayor Taylor noted that the Board has no discretion over the issue of hunting, only over the discharge of the firearm.

Mr. Ross said he understands the strong feelings on both sides of the issue and understands the Police staff's qualifications in reviewing the applications. He would be comfortable allowing staff to handle the applications with an exception clause relating to highly-dense neighborhoods. He would want the Board of Commissioners to review any application in which the activity would take place in dense neighborhoods and suggested the use of zoning designations as the guide. Mr. Fossett said he would be comfortable with staff review, and added a suggestion for a review by the manager or Town Board if the Police Department felt it necessary.

Mr. Higdon said the use of hunting as a deer population control mechanism is not useful, particularly with only 6-8 permits issues per year. He also noted that some applications have been vetted by the Police Department and recommended for approval but were ultimately denied by the Board due to safety concerns. The Board has approved some applications that he believes were unsafe, like the location close to the highway where an injured deer could possibly run out onto the highway. He prefers leaving the application process within the purview of the Board.

Mr. Query said the Board should rely on staff to know what they're doing and the process should be returned to staff. Mr. Melton agreed and said he had no problem entrusting the Chief and designated staff to make these decisions.

Mr. Buckley suggested an alternative – let the decision revert to staff and institute a right of appeal to the Board for those who were denied. Mr. Miller explained that he's more concerned with the approvals than the denials. There's not much available land for this type of activity and he doesn't think anyone should discharge firearms in a town of 30,000 people with roads, greenways, walkways and neighbors nearby. Mr. Ross said the Board shouldn't curtail someone's Constitutional rights if the experts have agreed that it's a safe endeavor.

Mayor Taylor said he had complete confidence in the Police Department experts and supports the option to revert the application process back to the Police Department.

Motion by Mr. Query to amend the ordinance to return the permit issuance discretion to the Police Chief or his designee, and for staff to bring a draft revised ordinance back to the Board for vote on September 28. The motion was seconded by Mr. Melton.

Mr. Higdon explained he can't support the motion since the Board has denied a few applications that had been stated as acceptable by the Police Department, and he prefers having the applications reviewed multiple people.

The motion passed 5-2 with Taylor, Query, Fossett, Melton and Ross in favor and Higdon and Miller in opposition.

CONSIDER ISSUANCE OF DISCHARGE OF FIREARMS PERMT FOR BOW AND ARROW UPON THE PROPERTY LOCATED AT 101 CHARING CROSS DRIVE

Chief Hunter reviewed the application for discharge of firearm (bow and arrow) at 101 Charing Cross Drive. The applicant has received permits for the past several years with no reported incidents or complaints. Staff has determined the activity can be performed safely with the conditions listed in the memo.

Motion by Mr. Ross to approve the discharge of firearms permit for Ronald Williams upon his property at 101 Charing Cross Drive under the conditions and restrictions noted within the memo from Chief Hunter dated September 9, 2015, for the period of time of today through January 1, 2016.

Ross motion to approve firearms permit with period today through January 1, 2016. The motion was seconded by Mr. Query and unanimously approved.

MAYOR'S REPORT

Mayor Taylor reported on Matthews Alive, saying it was the best one yet. He thanked all for their participation. He also noted the ribbon cutting for the electric car charging station at Matthews Station Street will be held tomorrow.

ATTORNEY'S REPORT

Mr. Buckley spoke of the action regarding the discharge of firearms ordinance revision, noting the need for a right of appeal to the Board of Commissioners. Without that there could be a constitutional claim regarding individual rights.

Mr. Query amended the motion to amend the ordinance to return the permit issuance discretion to the Police Chief or his designee, and for staff to bring a draft revised ordinance back to the Board for vote on September 28, to include a provision for appeals to the Board of Commissioners. The amended motion was seconded by Mr. Melton and passed 6-1 with Taylor, Query, Fossett, Melton, Miller and Ross in favor and Higdon in opposition.

TOWN MANAGER'S REPORT

Mr. Blodgett discussed a meeting he attended with Charlotte Water and Union County Water and Sewer. There are two areas in town south of 485 that experience water and sewer service issues. Due to fall lines, gravity and elevation issues it would be better for some Matthews properties to be served by Union County. Charlotte Water

said it's reasonable. If the Board agrees, Mr. Blodgett can contact Union County Water and Sewer about providing water and sewer service to Matthews residents in the affected area. By consensus the Board directed the manager to move forward and contact Union County Water and Sewer about this.

Mr. Blodgett then discussed an area with no sewer service at all, explaining that it would be very expensive for these residents to get serviced by Charlotte Water. They too would benefit from being serviced by Union County Water and Sewer. There would be no financial impact to the Town and Union County would use their extension policy.

Mr. Query discussed agreements made with Charlotte Water in previous years regarding the Town's commitment to the provision of service. Discussion ensued regarding 1984 and 1994 agreements and bonds, and the potential responsibility of Charlotte Water to provide lines at no charge in certain circumstances. Mr. Blodgett and Mr. Buckley will review the issue and bring information back to the Board on September 28.

MISCELLANEOUS

Mr. Miller noted seeing a lot of muddy orange water in the creek near his home and questioned its source. Mr. Blodgett explained that Mecklenburg County Stormwater has been contacted and should have some information soon.

Mr. Ross asked about water pressure in fire hydrants in Matthews Plantation and Chief Hunter explained that Charlotte Water has fixed the issue.

Mr. Ross noted a student in the audience. Boy Scout Aiden Fox of Troop 159 spoke about his Eagle Scout project and his work toward the Citizenship in the Community merit badge.

ADJOURNMENT

Motion by Mr. Melton to adjourn. The motion was seconded by Mr. Ross and unanimously approved. The meeting adjourned at 9:14 pm.

Respectfully submitted,

Lori Canapinno
Town Clerk