

**MINUTES OF THE MEETING OF
THE BOARD OF COMMISSIONERS
TOWN OF MINT HILL, NORTH CAROLINA
JULY 16, 2015**

The Board of Commissioners of the Town of Mint Hill met in regular session on Thursday, July 16, 2015 at 7:00 p.m. in the Mint Hill Town Hall.

ATTENDANCE

Mayor: Ted H. Biggers, Jr.
Commissioners: Lloyd Austin, Carl M. Ellington, Richard Newton and Katrina (Tina) W. Ross
Town Attorney: Kevin M. Bringewatt
Town Manager: Brian L. Welch
Deputy Town Manager: Lee Bailey
Planning Director: John Hoard
Police Chief: Tim Ledford
Fire Chief: David Leath
Town Clerk: Michelle Wells

CALL TO ORDER, INVOCATION AND PLEDGE

Mayor Biggers called the meeting to order, ruled a quorum present and the meeting duly constituted to carry on business. Following the invocation offered by Commissioner Ross, Mayor Biggers led the Pledge of Allegiance to the Flag of the United States of America.

ORDER OF BUSINESS

Addition, Deletion or Arrangement of Agenda Items: None.

Approval of June 11, 2015 Regular Meeting: Upon the motion of Commissioner Austin, seconded by Commissioner Ellington, the Board unanimously approved the minutes of June 11, 2015 Regular Meeting.

Consent Agenda: (a) Accept June Tax Collector's Report; (b) Accept March, April and May Treasurer's Report and Financials; (c) Accept Contract to Audit Accounts; (d) Approve Resolution Declaring Surplus Property; and (e) Approve Alliance of South Charlotte Communities Request for FY16 Member Contribution: Commissioner Ross asked to pull Item (e) Approve Alliance of South Charlotte Communities Request for FY16 Member Contribution for discussion.

Upon the motion of Commissioner Ellington, seconded by Commissioner Austin, the Board unanimously approved the Consent Agenda. (Copy filed with minutes of record.)

Commissioner Ross asked for an update on the Alliance of South Charlotte Communities. Specifically, what would the Alliance do for Mint Hill? Was the membership contribution amount the same as last year? Deputy Manager Bailey stated in December of 2013 the Board

had voted to join ASCC, adopt bylaws and contribute \$4000 (the contribution was paid in June of 2014). ASCC had been implementing the action plan presented at the joint meeting held in November of 2014 at Central Piedmont Community College. The \$5,000 contribution would continue the Town's membership through June 2016. Had the other three Town's already voted to contribute the \$5,000? He said they had approved the contribution. What was the initial \$16,000 used for? He stated he could get a financial statement but a large portion had been spent on legal costs associated with starting the Alliance and some money was placed in a corporate bank account. What would the \$20,000 for FY16 would be used for? He stated the money would be used for branding and marketing. Would there be a separate website? Yes. Would the Mint Hill Board of Commissioners be involved when a final name for the Alliance was chosen? The Town would have three representatives that could vote on the name. The name had been a stumbling block that would hopefully be overcome soon. Mayor Biggers asked what Deputy Manager Bailey recommended based on his interactions with the Alliance. Deputy Manager Bailey stated he was frustrated at times. Each of the four Town's had staff that had other duties and responsibilities and they were using "spare time" to donate to the Alliance. He stated the Town needed to be proactive in economic development. Deputy Manager Bailey went on to say, whether the Town continued with the Alliance or replaced the Alliance with an alternative just for Mint Hill. Commissioner Ellington felt the Town should be promoting Mint Hill as we had an advantage with the railroad. Commissioner Newton stated he had vast experience with branding. He didn't think branding the Town was the way to go; Mint Hill had a lot to offer and shouldn't limit itself to one direction. He felt as though the Town would be better served to use the money for contacting industries directly. Commissioner Ross stated \$20,000 should have a larger impact than \$5,000 from individual towns. Deputy Manager Bailey stated the Alliance was branding the region; a successful example of a regional alliance would be the I-77 Alliance made up of Chester, Fairfield, Richland and York Counties. Commissioner Newton stated the Lake Norman and Cornelius area had an alliance but it had not done well at all. He asked if the Town would become an investor or developer, as a member of the Alliance. Deputy Manager Bailey said developments and investments would be discussed in 2017-2018. Commissioner Austin didn't think the Alliance would take it that far. Commissioner Ross thought the Town should participate jointly with the Alliance and individually. She stated there wasn't full-time staff currently at the Mint Hill Chamber of Commerce. The Town needed to focus on Mint Hill by providing brochures and promoting the Town. She said a strong region benefited the individual towns. She cited professional residents that located to Mint Hill when the Matthews Presbyterian was constructed. Commissioner Newton stated good development would help the economic development for the Town. Mayor Biggers stated the Town of Matthews was really advertising the Alliance and their participation in it. Commissioner Austin thought the Alliance was a good idea. Commissioner Ellington thought we needed to focus on the Town.

Upon the motion of Commissioner Austin, seconded by Commissioner Ross, the Board approved item (e) Approve Alliance of South Charlotte Communities Request for FY16 Member Contribution for discussion by a 4-1 vote. Commissioner Newton voted in opposition.

Public Hearing on #ZC15-2, Filed by Paul Sleiman of S.T.O. Partners, Requesting Conditional Zoning Approval for a Drive Through Facility in Downtown: Mr. Hoard said the applicant had asked for the Public Hearing to be continued until August.

Mayor Biggers recognized and presented a Town pin to Boy Scouts: Zach Workman, Ryan Pfaller, Dylan Smalley, Sawyer Ellis, Joshua Marte and Kensho Piley who were in attendance from Troop 144 of Blair Road United Methodist Church.

Public Comments: None.

Discussion and Decision on Modifications to the Noise Ordinance: Attorney Bringewatt stated he had reviewed Section 09 Chronic Noise Producers and had no issues with the way it was written because it wasn't the violation section but instead was more of a mitigation plan. He stated he would be happy to any answer questions the Board may have about the proposed ordinance listed below:

NOISE CONTROL

Section

- 01 Loud, Disturbing Noises Prohibited***
- 02 Definitions***
- 03 Certain Sounds Prohibited***
- 04 Amplified Sound***
- 05 Permits for Amplified Sound***
- 06 Outdoor Amplification & Music at Commercial Establishments***
- 07 Sound Measurement Procedures***
- 08 Permits for Large Outdoor Music Facilities***
- 09 Chronic Noise Producers***
- 10 Enforcement & Penalties***
- 11 Severability***

01 LOUD, DISTURBING NOISES PROHIBITED, GENERALLY

It shall be unlawful for any person to create, or assist in creating, any unreasonably loud and/or disturbing noise in the Town of Mint Hill.

02 DEFINITIONS

For the purpose of this ordinance, the following words and phrases are defines below unless it shall be apparent from the context that a different meaning is intended.

“A” Weighting Scale The sound pressure level, in decibels, as measured with the sound level meter using the “A” weighted network scale. (Denoted ‘dB(A)’)

Amplified Sound Any sound created by a sound-magnifying device, whose source is outside or whose source is inside and where the sound propagates to the outside or to other dwellings or interior locations under separate ownership or occupancy.

'ANSI' American National Standards Institute or its successor bodies.

Construction On-site erection, fabrication, installation, alteration, demolition or removal of any structure, facility, or addition thereto, including all related activities, including, but not limited to, the clearing, moving, blasting or landscaping of land (earth.)

Daytime Hours 7:00 am to 9:00 pm

dB(A) Sound level in decibels, as determined by the "A" weighting scale of a sound meter having characteristics defined by the American National Standards Institute and conforming to the requirements of ANSI/NCSL Z540-1 IOS.

Decibel (dB) A unit of measure, on a logarithmic scale, of the ration of the magnitude of a particular sound pressure to a standard reference pressure, which for the purposes of Section 07 shall be 0.0002 microbars.

Emergency Service Vehicles Publicly-owned or operated vehicles used for the purposes of responding to public emergencies, to include police, fire and medical rescue vehicles, or vehicles of public utility companies or contracted private companies conducting emergency repairs to the protection of public safety.

Exceptional Permit An amplified-sound permit authorized by the Town Manager upon a finding of 'legal entitlement' of an applicant's request for a permit which is denied by the Noise Control Officer.

Motor Vehicle or Vehicle As used herein, shall mean any vehicle propelled on land by a motor, such as, but not limited to, automobiles,, trucks, truck-trailers, semi-trailers, campers, go-carts, motorcycles, mopeds or buses. It shall exclude trains and Emergency Service Vehicles.

Nighttime Hours: 9:00 pm to 7:00 am

Noise As used herein, any unreasonably loud, disturbing sound levels taking into consideration the volume, duration, frequency, and other characteristics of the sound.

Noise Control Officer Any police officer or other person so designated by the town manager who is trained in the operation and calibration of the noise measurement equipment. The Noise Control Officer may only operate within his/her territorial jurisdiction and must be authorized to issue a civil summons as required in this ordinance.

Person Any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of the state, any other state or political

subdivision or agency thereof or any legal successor, representative, agent or agency of the forgoing.

Plainly Audible Any sound that can be detected by a person using his or her unaided faculties.

Sound An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that cause compression and refraction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

Sound Level In decibels, a weighted sound pressure level determined by the use of a sound meter whose characteristics and frequency weighting are specified in ANSI standards.

Sound Level Meter Any instrument certified to meet or exceed ANSI standards which include an Omni directional microphone, an amplifier, and output meter and frequency weighting network(s) for the measurement of sound level.

Violator As described herein, means any person that is in possession of or has control of any noise generating device.

03 CERTAIN SOUNDS PROHIBITED

The following acts and activities, among others, are hereby declared to be a source of “unreasonably loud and/or disturbing noise” in violation of Section 01.

A. Sounds Impacting Residential Areas: It shall be unlawful to carry on the following activities in any residentially-zoned area of the Town, or within three hundred (300) feet of any residentially-occupied structure in any zone of the Town:

(1) The sounding of any horn, car alarm, siren, or other signal device upon any automobile, except when used as a signal of warning or danger, so as to create any unreasonable noise;

(2) The playing of any sound-magnifying device, radio, television, or musical equipment, within or outside of any structure, in a manner or at a volume so as to annoy or disturb the quiet, comfort or repose of any person in any adjoining dwelling, apartment unit, or hotel/motel room;

(3) The operation a front-end loader for refuse collection during nighttime hours;

(4) The operation of construction machinery or performing any construction activities during nighttime hours;

(5) The operation of automotive repairs equipment or garage machinery out-of-doors during nighttime hours;

(6) The operation of lawn mowers or other domestic power tools, out-of-doors during nighttime hours;

(7) The creation of any mechanical noise which registers more than 60 dB(A) during nighttime hours at the property line of the source of the noise.

B. Sounds Impacting All Areas: It shall be unlawful to carry on the following activities in any area of the Town:

(1) To operate or allow the operation of any sound amplification equipment so as to create sounds registering fifty-five (55) dB(A) during daytime hours or fifty (50) dB(A) during nighttime hours, as measured at the property line of the from where the sound is being amplified, except in accordance to a permit obtained from the Noise Control Officer;

(2) To amplify sound produced by a radio, compact disc, or any other electronic device, or sounds produced by any person or musical instrument from within a motor vehicle, so as to create an unreasonable noise such that the sound is plainly audible at a distance of more than fifty (50) feet away from the vehicle. This subsection shall not apply to vehicles used for business or political purposes which, in the normal course of operation, are not within five-hundred (500) feet of any school, child care center, house of worship, personal care facility, or hospital. This subsection does not apply to vehicles operating such equipment during public parades when a valid parade permit, with the sound conditions identified, has been issued;

(3) To discharge into the open air the exhaust of any internal combustion engine when the muffler system is missing or configured in such condition so as to result in the creation of unreasonable noise;

(4) The operation of any motor vehicle outside of any structure on private or public property in such a manner as to create unreasonable noises, by actions including, but not limited to racing engines, spinning tires, jackrabbit starts, and off-road operation.

C. This section shall not apply to:

(1) Emergency operations designed to protect the public health or safety;

(2) Work performed by State, County, Town or Government-Contracted crews in a right-of-way or utility easement when the department responsible for the work determines that it is necessary to perform the work during nighttime hours, under the following considerations:

(a) To avoid unreasonably impacting the flow of traffic; or

(b) To avoid unreasonably disrupting the provision of utility service.

04 AMPLIFIED SOUND

It shall be unlawful to operate or allow the operation of any sound amplification equipment so as to create sounds registering 55 db(A) or greater during daytime hours, or 50 db(A) during nighttime hours, unless otherwise authorized in this ordinance.

A. The following Tables shall serve as the sound emission limits of volume and measurement standards for the listed source of amplified sound except in accordance with a permit obtained from the Noise Control Officer:

Table 1 – Single Family Residential:

<i>Daytime Hours</i>	<i>Nighttime Hours</i>	<i>Measurement</i>
<i>55 dB(A)</i>	<i>50 dB(A)</i>	<i>Property Line of nearest occupied residential structure</i>

Table 2 – Multi-Family / Tenant Structures:

<i>Daytime Hours</i>	<i>Nighttime Hours</i>	<i>Measurement</i>
<i>55 dB(A)</i>	<i>50 dB(A)</i>	<i>From a point within the nearest adjoining unit to the source of the sound, or from the closest ‘common area’ to the source of the sound</i>

Table 3 – Residential / Institutional and Places of Public Gathering Having a Capacity of 1,000 or Greater (See also Section 08):

<i>9:00am–10:00pm</i>	<i>10:00pm–9:00am</i>	<i>Measurement</i>
<i>65 dB(A)</i>	<i>50 dB(A)</i>	<i>As measured anywhere at</i>

		<i>property line of nearest residential property</i>
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Table 4 – Business, Commercial or Industrial, Utilizing Sound to Advertise and/or Attract Customers:

<i>Daytime Hours</i>	<i>Nighttime Hours</i>	<i>Measurement</i>
<i>60 dB(A)</i>	<i>Not Permitted</i>	<i>As measured at nearest public right-of-way</i>

Table 5 – Business, Commercial or Industrial, Other Amplified Sounds (see also Section 06):

<i>Daytime Hours</i>	<i>Nighttime Hours</i>	<i>Measurement</i>
<i>60 dB(A)</i>	<i>Not Permitted</i>	<i>As measured at nearest public right-of-way</i>

Table 6 – Street, Sidewalk, Public Right-of-Way, Public Parking Structure or Park:

<i>Daytime Hours</i>	<i>Nighttime Hours</i>	<i>Measurement</i>
<i>60 dB(A)</i>	<i>50 dB(A)</i>	<i>As measured fifty (50) feet from source of amplified sound</i>
<i>70 dB(A)</i>	<i>60 dB(A)</i>	<i>As measured ten (10) feet from source of amplified sound</i>

Table 7 – Street, Sidewalk, Public Right-of-Way, Public Parking Structure or Park – Portable Amplification Device (i.e. ‘PA System’):

<i>Daytime Hours</i>	<i>Nighttime Hours</i>	<i>Measurement</i>
<i>60 dB(A)</i>	<i>Not Allowed</i>	<i>As measured fifty (50) feet from source of amplified sound</i>
<i>70 dB(A)</i>	<i>Not Allowed</i>	<i>As measured ten (10) feet from source of amplified sound</i>

05 PERMITS FOR ADDITIONAL AMPLIFICATION

A. Application - An application for a permit pursuant to this section must be submitted to the Mint Hill Police Department at least fifteen (15) business days before the permit time requested. It shall specify the responsible person(s) for the sound amplification equipment.

B. Notice of Tentative Approval – Upon initial review of the applicant and requested use, if found within the conditions of this section, a Notice of Tentative Approval shall be issued. For the permit to be considered ‘valid’ and in effect, the applicant must cause for a notice to be delivered / disseminated to all occupied properties located within 1,000 feet of the proposed location of sound amplification. This must be completed within seventy-two (72) hours of the proposed event. The confirmation of that delivery of notice shall be returned to the Noise Control Officer prior to the event / use of amplified sound.

C. Limits on hours - With the exception of permits issued pursuant to section 08, no permit shall be issued which will have the effect of allowing more than twenty (20) of excess amplification per year at any place of public entertainment having a capacity of one thousand (1,000) or more persons or twelve (12) hours of excess amplification at any other location.

D. Limit on Permits - Permits shall be tentatively approved and subsequently granted by the Mint Hill Police Department in the order of receipt. Subsequent permits shall not be issued for a location within a one thousand (1,000) foot radius of the location of an issued permit.

E. Not Permitted in Residentially-Zoned Areas– Pursuant to the issuance of a permit, the creation of sounds registering more than seventy (70) dB(A) anywhere within the boundary line of the nearest residentially-occupied property shall be prohibited.

F. Sound Check(s) – The applicant shall notify the Mint Hill Police Department when the amplification equipment is ready for a sound check by the Noise Control Officer. Using a sound-level meter, the Noise Control Officer may take readings to confirm that the levels have been set at the permitted level.

G. Permit Revocation – If sound checks taken by the Noise Control Officer during the event of amplified sound determines the levels to be in excess of the permit, or should it be determined that any other conditions of this section have not been completed as required or other conditions of the permit not met, the Noise Control Officer may Revoke the issued permit and require an immediate cessation of the amplified sound.

H. Permit Denial – If the applicant has been denied the issuance of a permit by the Noise Control Officer, and believes the denial to be illegal under applicable local, state or federal law, the applicant may appeal the denial to the Town Manager. The appeal shall be delivered in writing, and shall include a copy of the permit and a statement as to the applicant’s belief as to the legal basis for the appeal. The Town Manager shall have the discretion to grant an Exceptional Permit, waiving the exceptions for location, time of day, and/or decibel restrictions, upon his/her determination that the applicant has made a substantial showing of legal entitlement. Any such Exceptional Permits shall be promptly reported to the Board of Commissioners.

06 OUTDOOR AMPLIFICATION & MUSIC at COMMERCIAL ESTABLISHMENTS

A. Except in accordance to a permit issued pursuant to Section 05, it shall be unlawful for any commercial establishment, including, but not limited to restaurants, bars or nightclubs, to operate or allow the operation of sound amplification equipment out of doors or directed out of doors or to allow live acoustic music out of doors or directed out of doors other than during the times listed below or so as to create sounds registering in excess of:

Table 1 – Sunday through Thursday

<i>8:00am – 9:00pm</i>	<i>9:00pm – 2:00am</i>
<i>85 dB(A)</i>	<i>60 dB(A)</i>

Table 2 – Friday through Saturday

<i>8:00am – 11:00pm</i>	<i>11:00pm – 2:00am</i>
<i>85 dB(A)</i>	<i>60 dB(A)</i>

B. The decibel limits prescribed in this section shall be measured at the property line of the commercial property from where the sound is being generated

C. The amplified sound may only be produced during the operational hours of the commercial establishment.

D. An establishment that has been determined to be ‘Non-Cooperative’ pursuant to Section 09 (C) shall be subject to enhanced civil penalties and, after two violations of this section within one year of having been deemed ‘Non-Cooperative’, shall not operate or allow the operation of sound amplification or live acoustic music out of doors or directed out of doors for a period of eighteen (18) months after the second violation. The prohibition shall apply to the establishment and the property on which the establishment is located.

07 SOUND MEASUREMENT PROCEDURES & TECHNIQUES

A. For the purpose of determining decibels [dB(A)] as referenced in this ordinance, the noise shall be measured on the “A-weighting scale slow response” on a sound level meter of standard design and quality having characteristics established by the American National Standards Institute.

B. When the Noise Control Officer determines that insufficient prima facie evidence exists for establishing a noise violation case, the investigating officer will use a sound-level meter to measure the sound level. Sound measurements shall be conducted at that time, day or night, when the suspect noise source is emitting sound.

C. The following procedures shall be utilized in the sound measurement process:

(1) The sound measurement equipment shall have been calibrated within one hour before use and one hour after use to measure sound level;

(2) Prior to obtaining the sound sample, the sound level meter shall be set to the “A” weighted network at ‘slow response’;

(3) The Omni directional microphone shall be set in an approximate 70 degree position, approximately four feet from the ground or floor, facing the noise source while recording the meter’s instantaneous response (reading) observed at consecutive ten-second intervals, taking 10 to 15 sample readings.

(4) No individual other than the operator of the sound meter shall be within ten feet of the sound level meter during the measurement process.

08 PERMITS FOR LARGE OUTDOOR MUSIC FACILITIES

The purpose of this section is to establish a process by which permits may be issued to manage the musical and/or amplified sound emissions at large outdoor facilities which are designed to accommodate such events.

A. For the purposes of this section, a “Large Outdoor Music Facility” means a facility with a capacity of 1,000 or more persons and that offers musical and/or other amplified sound entertainment events at least five times a year.

B. A Large Outdoor Music Facility may, but is not required to, submit an application for a Large Outdoor Music Facility permit. When issued, the permit authorizes the sound emissions, under the conditions described within the permit, for the calendar year. All permits issued pursuant to this section expire December 31.

C. After consulting with the applicant and investigating the design and layout of the property, its proximity to residentially-zoned property, and the nature of any intervening property, a permit may be issued that contains the restrictions and/or requirements designed to strike an appropriate balance between legitimate use and operation of the facility and the noise impacts on residential life.

D. The restrictions and/or requirements may include, but are not limited to, restrictions on days of week or hours of operation, total number of events, operational requirements, design and/or structural requirements, and self-monitoring and reporting requirements.

E. A facility issued a permit pursuant to this section shall not be subject to the provisions of Section 06.

F. It shall be unlawful for a Large Outdoor Music Facility to violate the terms of a permit issued pursuant to this section.

09 CHRONIC NOISE PRODUCER

The purpose of this section is to establish a collaborative process through which the Town and the owner / manager / occupant of a property that has been identified as a chronic source of objectionable noise will develop and implement a noise mitigation plan intended to bring the noise to acceptable levels. A 'Chronic Noise Producer' is a location that, because of the sound generated by or at the location, is an annoyance to adjacent or nearby residences, lodgings, schools, businesses, or other places where people may congregate with a reasonable expectation of undisturbed activity. An establishment may be a Chronic Noise Producer without having violated other provisions of this Ordinance.

A. The Chief of Police (or designee) may designate the owner / manager / occupant of the location as a 'Chronic Noise Producer.' In making such a determination, among other factors, the following shall be taken into consideration:

- (1) The number and frequency of valid noise complaints;*
- (2) The proximity and physical relationship between the location and the complaining location(s);*
- (3) The severity of the sound events, both observed or measured;*
- (4) The times and days of the week of sound events;*
- (5) The location's history of cooperation and efforts to alleviate the problem; and*
- (6) The history and context of the location, including whether the sound producing activity predates the occupation of the complaining locations and/or whether the*

sound producing location is located in what is generally recognized as an entertainment area.

B. Upon designation as a Chronic Noise Producer, the Chief of Police shall inform the location owner / manager / occupant of the location and that it has been referred to the Town Manager.

(1) The Town Manager may request and consider the input of town staff and/or external experts with expertise in the type of location and/or noise under review.

(2) The Town Manager shall schedule a meeting with representatives of the location to review the information that formed the basis for the designation and any additional information concerning the noise produced at the location.

(3) Following the meeting, the Town Manager shall determine whether a Mitigation Plan is warranted. If determined warranted, the Town Manager and the representatives of the location shall together develop and endorse a noise Mitigation Plan. The plan may include, among other things:

- (a) Restrictions on days of week or hours of noise producing activities;*
- (b) Placement, orientation, and/or operation of sound-producing activity and/or equipment;*
- (c) Structural changes including, but not limited to, sound attenuation and baffling;*
- (d) Self-monitoring and reporting requirements;*
- (e) A schedule of plan implementation; and*
- (f) A schedule for review for possible revisions and or termination of the plan.*

C. In the event that a location designated a ‘Chronic Noise Producer’: (i) fails or refuses to participate in good faith in the development of a noise mitigation plan, (ii) refuses to agree to the developed noise mitigation plan, or (iii) fails to implement or comply with an endorsed noise mitigation plan, the business or entity shall be deemed as ‘Non-Cooperative’ and shall not be entitled to the benefits of this section until that designation has been removed. The designation shall only be removed when the reason for such designation has been resolved to the acceptance of the Town Manager.

D. In the event that noise enforcement action is taken against a location previously designated as a Chronic Noise producer, evidence of the location owner / manager / occupant’s participation in the development and implementation of and compliance with the noise mitigation plan shall be relevant to any prosecution or administrative or judicial review or appeal of the enforcement action. A location owner/manager/occupant who fails to comply with this subsection shall not be entitled to the benefits of this subsection unless the failure is remedied to the town’s satisfaction.

E. Appeals. The owner / manager / occupant of a location that has been designated as a Chronic Noise Producer or Non-Cooperative may appeal such designation within ten (10)

calendar days after receiving notice of such designation. A ruling on appeal is subject to review in superior court of Mecklenburg County by proceedings in the nature of certiorari. Any petition for writ of certiorari for review shall be filed with the clerk of superior court within thirty (30) days after notice of the decision has been sent to the appellant.

10 ENFORCEMENT & PENALTIES

A. Enforcement - When there is a violation of any section of this Chapter, the Town, at its discretion, may take one or more of the following enforcement remedies:

(1) Civil Penalty – The Noise Control Officer or any police officer may issue a notice of violation as provided subjecting the violator to a civil penalty of \$100, which penalty may provide for a delinquency charge of \$10 per day upon non-payment, in which penalty and delinquency charge may be recovered by the Town in a civil action. The civil penalty must be paid within 72 hours of the date and hour of issuance, with the delinquency penalty beginning at the 72nd hour.

(2) Repeated Offenses - In the event of more than one violation within any 30-day period, the civil penalty shall be increased for each additional violation as follows:

- (a) \$250 Second Offense*
- (b) \$500 Third Offense*
- (c) \$750 Fourth Offense*
- (d) \$1,000 Fifth & Subsequent Offense*

(3) The Town may seek an injunction and order of abatement directed toward any person or entity creating or allowing the creation of any unlawful noise, including the owner or person otherwise having legal or actual control of the premises from which it emanates.

B. Enforcement - When there are repeated violations of section 06 or 08, the Town, at its discretion, may take following enforcement:

(1) An establishment which has been found in violation of this section more than two times within any twelve-month period may be classified a ‘Chronic Noise Producer’ and have its privileges under this section suspended for a period of up to twelve months. This may be relieved only if a Mitigation Plan is developed, enacted and confirmed that it brings the establishment within compliance of this section.

(2) An establishment having had its privileges under either section 06 or 08 suspended pursuant to such designation shall only legally produce or allow to be produced amplified or live sound pursuant to the restrictions described in section 04, Table 5.

(3) The Town may seek an injunction and order of abatement directed toward any person or entity creating or allowing the creation of any unlawful noise, including the owner or person otherwise having legal or actual control of the premises from which it emanates.

(4) An establishment which has had its privileges under sections 06 or 08 suspended continues to produce or allow to be produced amplified or acoustic sounds in excess of those allowed under 04, Table 5, shall be subject to a civil fine of \$1,000 per violation.

C. Criminal Penalty - Violators may be charged with a misdemeanor and be subject to a fine of up to \$500 and/or ordered to thirty (30) days in jail, pursuant to NC GS 14-4.

11 SEVERABILITY

If any provisions of this subchapter or the application thereof to any person or circumstance is for any reason held invalid, such invalidity shall not affect other provisions or applications of the subchapter which can be given effect without the invalid provision or application, and to this end the provisions and subchapter are declared to be severable.

The Board discussed the proposed Noise Ordinance in depth. Commissioner Ross asked that mechanical noise be defined. The consensus agreed it was noise coming from a machine. Commissioner Ross raised questions about the different standards for separate sections. Attorney Bringewatt stated if the Board wasn't comfortable with the proposed amendment that he could work with Chief Ledford. He stated he was not concerned about the overlap in the sections. Commissioner Ross stated the discrepancies in decibels worried her and not the overlap. Attorney Bringewatt said he was comfortable with the possible overlap to one or more section of the ordinance. Mayor Biggers asked if the Board preferred Attorney Bringewatt and Chief Ledford to revisit the ordinance and bring it back to the Board at a later date. Commissioner Austin stated he was ok with adopting the ordinance as written. Commissioner Newton agreed. Mayor Biggers asked Chief Ledford about his recommendation. Chief Ledford said he was comfortable with the ordinance as it was written. The City of Charlotte and the Town of Matthews both have the ordinance (Charlotte has slightly different numbers) and have been quite pleased with the results. Commissioner Austin stated if the ordinance needed to be adjusted they could do it at a later date. Commissioner Ross stated she still couldn't understand why the decibel levels didn't correspond and suggested they adopt an ordinance that didn't need to be modified in the future.

Upon the motion of Commissioner Austin, seconded by Commissioner Ellington, the Board adopted the proposed Noise Ordinance by a 4-1 vote. Commissioner Ross voted in opposition.

Other Business/Council Matters: Commissioner Newton stated it had been a long time since he had received any resident complaints and things were going well.

Commissioner Ellington stated the June Planning Board meeting had been cancelled due to lack of business. He had attended the Sycamore Animal Clinic opening and had been very impressed with the Mint Hill Police Dog training showcased at the opening.

Commissioner Ross attended the Queen City Brass band concert at Town Hall on July 3rd. She had been one of four people to attend a meeting held at New Beginnings Community Church;

the church would file a rezoning request with the Town very soon. The neighbors in attendance spoke very highly of the church and were in favor of the rezoning. She had attended the open meeting of Alliance of South Charlotte Communities and it was interesting. She had attended the Mint Hill Volunteer Fire Department (MHVFD) meeting; they had responded to 229 EMS calls and 102 Fire calls in June for a total of 331. The year-to-date total was 2,018. She had seen the Town Seal used on a non-Town document and asked about our trademark. Manager Welch said he would ask Attorney Bringewatt to draft a “cease and desist” letter. She encouraged everyone to attend the Homearama at the Chevel Community running from July 18th – August 2nd.

Commissioner Austin attended the Mint Hill Volunteer Fire Department meeting, the Chamber of Commerce meeting and the Alliance of South Charlotte Communities meeting.

Chief Ledford stated Coffee with a Cop would be held August 4th at Bojangles on Lawyers Road from 9-10 a.m. National Night Out would be held on Tuesday, August 4th from 5:30-7:30 p.m. at Veterans Memorial Park.

Mayor Biggers enjoyed the Queen City Brass Band concert at Town Hall on July 3rd. He attended the Matthews Chamber of Commerce meeting with Commissioner Ellington.

Adjournment: Mayor Biggers adjourned the meeting at 7:55 p.m.

Michelle Wells, CMC, Town Clerk