

Minutes
Catawba County Board of Commissioners
Special Session, Tuesday, November 7, 2006, 11:00 a.m.

Board of Commissioners

Special Session – Work Session to discuss UDO Issues

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The Catawba County Board of Commissioners met in Special Session on Tuesday, November 7, 2006 at 11:00 a.m. in the Second Floor Meeting Room of the Government Center in Newton, North Carolina. The purpose of this Special Session was to conduct a work session to discuss issues related to the proposed Unified Development Ordinance.

Present were Chair Katherine W. Barnes, Vice-Chair Dan Hunsucker and Commissioners Glenn E. Barger, Lynn M. Lail and Barbara G. Beatty.

Also present were County Manager J. Thomas Lundy, Assistant County Manager Joellen Daley, Assistant County Manager Lee Worsley, Interim County Attorney Debra Bechtel, Attorney Anne Marie Pease, Planning Director Jacky Eubanks, Planner Susan Ballbach and County Clerk Barbara E. Morris.

Chair Katherine W. Barnes called the meeting to order at 11:05 a.m.

Chair Barnes stated that the meeting was a work session that was focused on home occupations and cottage business regulations. The work session was to receive information from the staff as well as to have conversation among the commissioners and this was not a meeting where any action would be taken. Chair Barnes said there was an additional work session planned but more than one session could be required. She asked County Manager J. Thomas Lundy to start the meeting.

County Manager Lundy indicated there were three issues to be presented at the meeting:

- 1) Cottage Businesses and Home Occupations;
- 2) Recommendations on veterinary clinics – an issue raised at a previous board meeting;
- 3) Response to a question by Board members about whether there is enough potential for light industrial occupations in the County.

Starting with cottage businesses and home occupations, Mr. Lundy said he wanted to walk the Board members through where the County was at present with the proposals in the UDO and then present some changes that staff had made in preparation for this work session.

There were three goals related to cottage businesses and home occupations. The first goal was identified as trying to strike a balance between flexibility and opportunity for start-up businesses and safeguarding the citizens' general health, safety and public welfare by maintaining the integrity of separation of uses.

The second goal was to ensure fairness for all businesses. If a business activity is occurring, then it should be in the correct zoning area, should be recorded as such, valued as such and paying taxes as such – otherwise businesses that are classified that way and are in a commercial zone are at a competitive disadvantage compared to those located on a residential lot.

A third goal was to ensure, as the County continues to urbanize and grow, surrounding residential communities are protected.

Mr. Lundy suggested that as the Board considers the regulations, focus should not be on what is occurring today but what is going to be the case in the future. Zoning is a tool to protect and safeguard the balance the Board desires in the future for the County.

Mr. Lundy said the County receives about 50 complaints per year from surrounding property owners about businesses that are not in compliance with zoning regulations – this does not include signs, junk vehicles, etc – just about businesses. He gave an example of Foothills Trucking as what might have been okay at one point but years

later was perceived as a neighborhood. Back in 1973, before zoning, the location of Foothills Trucking made sense, but in 2005 it did not because the area around Foothills Trucking has developed into subdivisions/residential communities and those residents are complaining to the Board about why a trucking company was allowed in that area. While the business exists as a legal, non-conforming use, the business owner wanted to expand because business is good but the neighbors were upset about the proposed expansion. Even though "buyer beware" could apply, those people moved in and became concerned about a business in a residential area. Mr. Lundy pointed out that when looking at zoning, there may be light assembly with rural area around it, but there should be adequate safeguards put in place today to prevent a reoccurrence of the Foothills scenario in the future.

Mr. Lundy said prior to 1990, the Board of Commissioners had allowed home occupations in homes as well as backyard workshops, light manufacturing and light industrial with special use permits. In 1990, the Board of Commissioners decided that was not how the County should develop and it took action to continue to allow home occupations, but prohibited the light industrial occupations. Since 1990, there have been a series of businesses started up but the number is unknown since the County's enforcement has been complaint driven. Mr. Lundy said he believed in most cases these violations were unintentional, but there were some cases where it was intentional and the business owner actually signed that they would not establish a business and then went ahead and did it anyway. In either case, these businesses now present the current dilemma for the Board.

Mr. Lundy said there were good reasons to allow businesses in rural areas – promoting the County's entrepreneurial spirit; providing a start-up opportunity until a business grows beyond the residential/rural setting; the trend towards more service-oriented jobs as opposed to manufacturing and the County's unemployment rate compared to the State average. The proposed UDO has an emphasis on greater flexibility with mixed uses and combined with higher standards to support business in rural areas.

The Board had asked the staff to survey other counties about their practices and the staff surveyed nine counties regarding their policies on cottage and home businesses. The survey revealed there was a lot of consistency when it came to allowing home occupations. There was less consistency when looking at cottage industries (detached building) – only four of the nine counties allow a cottage business and when it came to allowing a cottage industry on a separate lot as proposed in the UDO, Catawba County would be the only county of those surveyed which allowed that practice.

Staff recommended:

- Striking a balance between business interests and residential interests;
- Maintaining the integrity of the separation of uses and standards to safeguard the health, safety and general welfare;
- Ensuring that as the County urbanizes in the future, surrounding residential communities is protected.

Staff proposed:

- 2 levels of residential businesses
- Home occupations and cottage businesses with accompanying standards

For businesses that do not fall into either of these two levels of residential business, their options would be:

- Request rezoning to general commercial or industrial zoning;
- Request rezoning to conditional commercial or industrial zoning. Under this option the use is specific to the site and is tied to standards and conditions mutually agreed to by the applicant and the Board of Commissioners. *(In the UDO, the recommended minimum acreage is 5 acres and staff is now proposing that the 5 acre minimum be eliminated and the minimum could go as low as 20,000 sq. ft, depending on the proposed use at a particular site);*
- Re-locate the business to a suitable commercial or industrial location.

Under either rezoning option, plan consistency and the test for spot zoning must be considered.

Staff then recommended that if a business does not or cannot qualify under the proposed regulations, staff would work with the business on options on a case-by-case basis, for up to two years, as long as the owner was actively pursuing compliance and showing progress toward that end.

Mr. Lundy then listed permitted uses for home occupations:

- Dressmaking, sewing, tailoring
- Painting and sculpting
- Telephone answering service
- Home crafts
- Tutoring, no more than 4 students
- Computer programming
- Barbershops and beauty parlors
- Cooking and baking
- Professional services – such as engineer, architect, surveyor, accountant
- Office for any trade – plumber, electrician, etc.
- Other similar uses

These businesses would have to be operated inside the principal dwelling, could occupy up to 25% of the dwelling and they could have one non-resident employee working on the business site.

He then listed proposed cottage business uses:

- All uses allowed in a home occupation
- Commercial machinery repair and maintenance
- Contractors: drywall, electrical, plumbing, masonry, painting, roofing and residential, commercial and industrial building construction
- Electronic equipment repair and maintenance
- Janitorial, housekeeping and lawn care services
- Printing and related support activities
- Retail (small-scale), such as a florist, craft sales
- Travel agencies
- Upholsters, cabinets and woodworking shops

Proposed regulations for these cottage businesses:

- Uses are more intensive than those in home occupations. Special use permit is required (would allow for public comments – neighbors could voice their concerns and the Board of Adjustment has discretion to impose further conditions);
- All business operations can be conducted inside the principal dwelling or in a detached building on the site or an adjacent site;
- Can occupy an area equal to 50% of the dwelling;
- Can have two non-resident employees working on the business site;
- Use must be buffered and screened;
- Not allowed in a subdivision of more than 3 lots;
- Average daily trips (ADT) limited to 50 (25 round trips);
- One acre minimum;
- No outside storage allowed;
- 150 feet of frontage on dedicated ROW;
- Tax parity – issuance of a special use permit will trigger an adjustment in taxes assessed.

Non-permitted uses for cottage businesses:

- Automobile/vehicle repair or transport businesses
- Home and garden equipment repair
- Manufacturing/light assembly
- Land development contractor
- Specialty trades such as well drillers and utility system construction

Mr. Lundy stated there are implications in allowing more intensive uses in rural areas. The lines become more blurred and neighborhood residents may feel their property values, general health, safety and welfare are compromised. Businesses that are steered toward commercial districts and follow the rules and regulations may feel a competitive disadvantage, and businesses allowed in residential areas may not feel compelled to move to commercial districts as they grow. He also pointed out if businesses were allowed in these residential areas, it could result in a problem of getting them to move to commercial districts when they outgrew the zoning and stipulations in the residential areas.

Mr. Lundy said the staff was concerned with what was to be done with the businesses that are now *illegal* or in violation of the current ordinance. The concept of amnesty had been investigated, or not enforcing at all for a period of time or passing business regulations before the adoption of the UDO to create legal non-conforming uses. The ramifications of these options are that they can all be considered arbitrary and unfair to those who followed the rules. There is a question as to what should be done in the way of consistency in enforcing County regulations for other violators of County regulations (i.e. building permits) and the perception of rewarding those who started businesses which were in violation.

Mr. Lundy pointed out other ramifications from the recommended enforcement of regulations such as increased workload for the Board of Adjustment in hearing special use permit requests for cottage businesses. He pointed out that since 1990 code enforcement has been complaint driven only – which results in an issue of consistency – or did the Board want to be more aggressive and seek out businesses that are non-compliant. Currently with building permits, there are double fees for someone who starts a building illegally – so it was proposed that businesses operating illegally prior to getting a special use permit should be charged a double fee. Mr. Lundy then reminded Board members that even if they were not to pass the regulations in the UDO, the County's current zoning still makes these businesses illegal and noted that the proposed UDO is more lenient than the current zoning ordinance because it allows more choices for business owners.

Mr. Lundy then summarized what Danny Hearn, Chamber President, had heard at a recent meeting with small business owners at the Chamber. Small business owners did not want the UDO to pass in its current state but also said there are some niches and needs that small businesses would like to be filled and that the Chamber could fill. It was suggested that vacant properties could be taken and converted to business incubators, warehouse/storage areas were needed for heavier equipment, availability of wireless connectivity was needed, more education on what is available for businesses in the community and assistance with marketing and office space for meetings would be helpful.

Commissioner Beatty asked about automotive repair shops on the list of non-permitted uses for cottage industries. She said there were a lot of these businesses out in the County that had been there forever and wondered if they could get licenses so that they could be legal. Mr. Eubanks said they were illegal and they would not qualify to be eligible for special use permits. Because of the outside storage and the intensity of the business, they would have to go for rezoning, come into compliance or relocate. Attorney Debra Bechtel said the only exception to this would be if there was a business that was operating prior to the adoption of zoning (1974) which could mean the business was a legal, non-conforming use.

Commissioner Barger said that if in fact the regulations were passed in 1990, and enforced only through complaints, then was there really no ordinance. He said it was easy to pass a rule if you don't intend to enforce it. He questioned what it would cost the taxpayers of the County to enforce those proposed regulations if they are put in place. Attorney Bechtel said she could not answer the financial question but in response to the ordinance question, when any Board adopts a regulation, if there is an articulated purpose behind it - so long as it serves a constitutional purpose – then it becomes a law on the books. She said there was no separate law that says you must follow it every time if you do not know about it. The problem comes into play if you are aware but treat similarly situated people differently. Commissioner Barger asked if that was what was happening and Attorney Bechtel said that was not true. If you were responding to every complaint as it came up, and she believed the County had done that through the Planning office, there was nothing illegal about responding on a complaint driven basis. Commissioner Barger said he wanted to know what the complaints had been that the County responded to – was it because of noise, because of clutter, because of spillage of materials – what were the complaints and how many of those complaints have been driven because someone got mad at a neighbor or an employee got mad at a business owner? He said he would like a breakdown of the complaints. The staff said they would get information on the number and types of complaints.

Commissioner Lail asked Mr. Eubanks to clarify spot zoning. He responded there was a four-part test for spot zoning. The test for spot zoning tries to ensure the request before the Board is one that is consistent with the overall plan, that is in conformance with regulations and with general health, safety and welfare issues, and is consistent with surrounding zoning. He said spot zoning considered uniformity, large scale development and plan consistency. He gave an example for spot zoning – a negative example – a small tract of land (an acre) in the middle of a residential area surrounded by hundreds of acres of residential – and the Board arbitrarily decides to rezone it light industrial. So then spot zoning would be in the negative – it is inconsistent with the pattern of development around it, it also inconsistent with what the plan calls for, so it could be construed by a Judge that spot

zoning occurred and thus the County made a bad decision. He gave another example of a 200 acre tract of land that the Board might want to zone light industrial and is also surrounded by residential but because of the size, the court might look at it differently – so rule of thumb – the smaller the tract, the greater the possibility of inconsistency. Vice-Chair Hunsucker asked how this applied to Foothills Trucking. Mr. Eubanks said that back in the late 1960s, when zoning was first applied in the County, the owner had the opportunity, as did all citizens throughout the County, to come to the public hearing and say they were already an industry and wanted to be designated industrial zoning. The owners did not do this so the area was zoned residential.

Commissioner Lail presented a scenario where someone currently owned a business property and there was a structure on that property that had been used as a residence and then the owner wanted to put something commercial in that structure and the person had to go through a zoning change, building permits and other permitting procedures to do so. She asked would the person be required to do that if he got a zoning change and had a cottage business? Mr. Eubanks said yes and said all the permits Commissioner Lail had cited would be required whether he got a special use permit for a cottage business or requested a rezoning for the more intense uses that wouldn't be allowed as a cottage business. The business would still have to comply with those standards either way – with a special use permit or with rezoning. Commissioner Lail then asked if those standards had to be complied with for a home occupation? Mr. Eubanks said no because the home occupation, as far as the building code goes, is not commercial property.

Commissioner Barger asked about road frontages for cottage businesses. Mr. Eubanks explained that with the increased intensity of a cottage business versus a home business and the fact that the business activity was now occurring out of the home into the backyard or an adjacent building, there was more noise, more traffic, and more things associated with business, so therefore more width and depth of separation on that lot was needed than with a typical lot which might be as little as 75 feet. Commissioner Beatty asked how this applied to the complaints she had been receiving from one of the subdivisions where there was a business operating – homeowners felt it was a dangerous business plus it was dangerous for the neighborhood kids because there were so many cars coming in and out. She asked would that business not be allowed under the proposed regulations? Mr. Eubanks said yes because it would not comply with the restriction regarding a major subdivision with four or more lots – so it was already out of compliance. He also pointed out that typically homeowner associations would police this type of violation and they would be the ones to restrict this and enforce the restrictive covenants.

Chair Barnes asked Mr. Eubanks to designate the difference between special use and conditional use. Mr. Eubanks replied that one was a legislative decision – with conditional zoning the Board makes the final decision and with a special use permit it is a quasi-judicial decision before the Board of Adjustment. The standards the Board would put in place may be very similar because the Board of Commissioners and the Board of Adjustment have the ability to make adjustments for establishing higher standards than what is in the ordinance. He gave an example of an owner coming in and proposing hours of operation from 8 a.m. to 8 p.m. and at the meeting it is determined from surrounding property owners that because of the nature of that business, it needs to be from 8 a.m. to 5 p.m. The Board of Adjustment can alter the operational hours – but the landscaping, buffering, lighting, setbacks, signage, driveways, etc. may be decided very similar for both the Board of Adjustment and the Board of Commissioners. Chair Barnes then asked with the special use permit, if that property were sold, would it remain with that special use? Mr. Eubanks replied yes, because the permit runs with the land. Chair Barnes asked if conditional use zoning ran with the land. Mr. Eubanks said it was very similar – it runs with the land with the use – so as long as the use stays the same and there is not a major modification, under either a special use permit or conditional use zoning, the new owner will be allowed to continue on with the specific use.

Commissioner Lail requested an explanation of the land development contractor category under non-permitted uses for cottage businesses – Mr. Eubank explained it was a business which developed the infrastructure of a development – the streets, utilities – those types of things which required use of heavy equipment and the actual moving of land.

Vice-Chair Hunsucker asked if someone could go to the Board of Adjustment for a special use permit and then come to the Board for conditional use zoning. Mr. Eubanks said if they could comply with the special use permit, typically by right they would get it. He said it was very seldom that the Board of Adjustment turned down a special use permit when the applicant met two types of standards – the general standards – general health, safety, welfare and compatible with surrounding property and special standards that are in the ordinance. Could they turn around and come back to the Board of Commissioners for conditional zoning? He said they might have that opportunity if they can't comply with a special use permit. If they don't succeed with the Board of Adjustment and want to pursue

it, it could be appealed to Superior Court. If they go for rezoning before the Board of Commissioners and do not succeed, they have a one year waiting period before they may resubmit, which is the same for other Boards with the same request. Mr. Lundy clarified that the Board of Adjustment makes its decision based on the occupations and uses decided on by the Board of Commissioners and is really interpreting putting any special provisions on those uses – they are not opening up the uses – they were not changing what the Commissioners have said is the general policy. Commissioner Barger asked if they left the automotive repair occupation on the non-permitted use category, the hundreds of those businesses already in the County who wanted to stay in business would have to pursue rezoning or conditional use zoning which goes before the Planning Board and then the Board of Commissioners. He asked if it was known how many of these businesses were currently operating in the County and Mr. Eubanks said there were dozens, but because of the complaint driven enforcement of the Code, the actual number was unknown. Commissioner Beatty suggested that there be a better way to place restrictions on these businesses because she believed they would continue to operate and it was questionable what they were doing to in regard to environmental safety and dealing with the junk and appearance of these operations. Chair Barnes pointed out that the County did not have a business operation permit as most cities do, and so the County doesn't know what businesses are in the County and what chemicals or environmental products are being used. Commissioner Barger said they needed to look at the number of people who were going to be put out of work by enforcement and since the County had struggled with unemployment for the last four years and numbers were starting to get more reasonable they needed to know if this enforcement would result in hundreds of people added to the unemployment rolls. Vice-Chair Hunsucker said it had to be looked at from the general health, safety and welfare standpoint because a lot of these people were providing a service for the community – an affordable service in addition to unemployment aspect. Chair Barnes said intensity had a lot to do with it when it came to health and safety. Assistant County Manager Joellen Daley said the welfare of the citizens of Catawba County was considered when compiling the lists of permitted businesses and staff also looked at what other counties were permitting and what was proposed was far more lenient than any other county. She said what was difficult to determine was where to draw the line, and the line had been drawn where businesses get into a level of intensity which would generate complaints regarding noise, vehicle trips, odor, fumes and dirt. Ms. Daley said staff was also focused on what the non-compliant businesses could do to become compliant and to give them options to do so. She said the rezoning and special use permits allowed neighbors to come forward and voice if they do not have a problem with the business and express their support of that business. Commissioner Beatty said it bothered her that someone who had been in business for 20 years suddenly was told they have to comply. Ms. Daley acknowledged it was going to be difficult, but the issues of fairness had been considered and the fact there were businesses out there that had also been in business for those same 20 years and had been in compliance and had paid taxes both on their property at the commercial rate on business income and did not have the competitive edge these other businesses had without these expenses and higher overhead costs.

Commissioner Lail asked about businesses that were not listed on either the permitted or non-permitted lists and Mr. Eubanks replied that if it were not listed, it was most likely that they were non-permitted businesses. He said the issues that decided a lot of these non-permitted uses were the outside storage and the intensity.

Commissioner Barger questioned the average daily trip restrictions and used an example of a florist shop on Valentine's Day and most likely, on that one day, the florist would be out of compliance. Mr. Eubanks replied that in enforcement they were looking at a pattern and that would not be the pattern of that business. Attorney Bechtel also added that the restriction was the *average* daily trips, and those few days that the florist went over would not become an enforcement issue.

Commissioner Lail asked that staff elaborate on what small businesses were looking for and what had been heard at the Chamber meeting on this subject. Mr. Lundy asked Danny Hearn to address this. Mr. Hearn said there were a variety of people in the room including those who could be affected by the regulations and those who already complied. He said he was throwing out ideas on how to get and keep those businesses in compliance and that's where they came up with the business incubator idea, but the strong sentiment in that meeting was that these businesses could not afford to move to become compliant. He said the majority of the people said an incubator would not meet their needs. They heard from companies that just wanted to know where to store equipment and where warehouse space was available and where they could find office space to meet with clients.

Ms. Daley then presented the vet clinic issue that had previously been before the Board in 2004. It had gone to the Planning Board and that Board had made the recommendation to not adopt this special use category and the Board of Commissioners did not adopt the vet clinic special use category. The issue again came up at the Board of Commissioners' October meeting. Staff was resubmitting the request to the Board for consideration because of the

discussions on cottage businesses. Ms. Daley said the reason it was broken out as a separate category was that in the UDO, and in the current regulations, there were some uses that have standards in addition to the regular standards that might apply to a cottage business. Examples of other businesses that have additional standards were adult and child daycares, cemeteries, campgrounds, conference retreat centers and greenhouses. Commissioner Lail asked if a veterinary clinic would be regulated by the State and Ms. Daley replied those regulations would apply to the business operation but zoning applications would be local. The businesses that Ms. Daley itemized, as with the vet clinic, would require special use permits. She said the regulations they were considering for this business were the same as the first time this issue came before the Board but the only difference was the actual amount of land that would be necessary for the clinic – previously the requirement was 10 acres and now staff was recommending 5 acres so to better conform with the cottage business standards of one acre. In addition, there were standards regarding lot size, setback and perimeter buffers. The square footage maximum could be 8,000 square feet and the activities would have to occur indoors, the setbacks for the exercise yard would be 200 feet and any buildings housing animals would also have setbacks of 200 feet. Vice-Chair Hunsucker asked why there was a maximum square footage on the building and Mr. Eubanks said they had looked at vet clinics two years ago and had come up with what appeared to be a reasonable amount of square footage for that purpose. Vice-Chair Hunsucker asked if this was for small animals or large animals. Mr. Eubanks said they hadn't looked at large animal operations. He went on to say that the Board of Adjustment could look at this square footage requirement if large animals were going to be served. Staff was recommending establishing a special use criteria to allow the vet clinic based on it being consistent with what was being proposed for cottage businesses and that they have heard there was a need in the rural areas for this particular use. Commissioner Beatty asked if there were regulations as to how close to other houses these clinics could be situated and Mr. Eubank said the 200 foot setback addresses these concerns regarding noise and proximity to neighbors. He also said planning designs would have to address the noise issue with insulation and building products and a site plan would be required. It was clarified that these regulations regarding vet clinics would be part of the proposed UDO.

Ms. Daley then moved on to industrial zoning opportunities in the County. She described to the Board what was presently available for these opportunities which totaled approximately 4200 acres – 2700 of which had buildings that were not industrial and there were about 1500 acres occupied with industrial structures. The majority of this property is located along the 321 corridor or at the Marshall Steam Plant. Staff proposes to create an overlay on the 321 corridor which would be approximately 25,000 acres. Commissioner Beatty asked why that area had not been successful in attracting industry and if there were too many restrictions on building in that corridor. Mr. Eubanks said he didn't have any definitive answer on that but he thought the standards in place were reasonable for any type of industrial park. No one had come to the Planning Department to say the standards were too restrictive and they were consistent with those in Lincoln County. Chair Barnes said she was told that the price of the land is more costly. Ms. Daley said this overlay was considered to be a mixed use corridor so even though it had an industrial overlay, there would be other uses in the corridor – whether residential, commercial or industrial. EDC had been consulted when identifying these proposed industrial areas with regard to whether the proposed areas would be appropriate for industry. In addition to the 321 corridor, there were two areas identified along I-40 and would encompass about 2600 acres – one at Exit 138 where Shurtape is and one north of Conover in the Claremont industrial area. Staff recommends that an overlay district be created both on Hwy 321 and on I-40 and that the regulations be consistent with the 321 corridor standards which have to do with the driveway connections, landscaping and buffering, no metal units, 100 foot setbacks, trees and the entrance to the facility being landscaped. Based on the recommendations, there are 4200 acres existing and the proposed overlay would add 25,000 new acres – not all recommended for industrial but industrial could go in it - and the I-40 corridor was another 2600 acres of existing industrial zoning. The total opportunity would then be about 31,700 acres. Chair Barnes asked about the metal unit restriction and Mr. Eubanks said metal could be used as an accent but not as the primary building material. Chair Barnes said the overlay gave people who were researching for commercial uses an opportunity to see there were available sites. Commissioner Lail agreed and stressed that this be part of the EDC's mapping literature and on the GIS for those researching the County as a business location.

Chair Barnes asked if there were any additional thoughts on the veterinary clinic in a residential area. Vice-Chair Hunsucker said he had no problem with it but he hoped that they were encouraged to stay in the large animal practice. Commissioner Beatty asked how soon would the petitioner be able to apply. Mr. Eubanks said if it was part of the UDO, whenever the UDO became effective, as soon thereafter that Planning could process an application – within 30-45 days after the passage of the UDO. If it were not done under the UDO but done as a stand alone issue, it would have to go back to the Planning Board and then back to the Board of Commissioners – either way, it would be at least 45 days.

Commissioner Beatty then asked about the business owners in the room and where they stood and Mr. Eubanks said some could comply and qualify under special use permits and the others, staff would work with to gain compliance. He noted that enforcement had basically been suspended until the Board's decision on the UDO. Commissioner Beatty asked the cost for one of these businesses to go through the rezoning process and Mr. Eubanks replied that it was \$625 for a rezoning application and \$425 for a special use permit. Ms. Daley pointed out that staff was recommending that these fees be doubled for businesses in violation just as people were charged who were not compliant with building permits. Commissioner Lail wondered whether that could be suspended and Ms. Daley said it came back to the fairness issue to the people who had complied and paid the commercial taxes all along and worked with a higher overhead. Commissioner Barger said it was a fairness issue because the County had not enforced the regulations and he had a problem with double charging the businesses in violation. Chair Barnes said the whole enforcement issue raised issues that the Board was going to have to address because she agreed it was unfair to the other businesses that have followed the rules. Commissioner Barger said whatever the Board came up with needed to be enforced. Commissioner Barger again asked how much it was going to cost to enforce the regulations. County Manager Lundy said they would provide the cost of enforcement and the kind of complaints the County was receiving. Vice-Chair Hunsucker said it depended on how the County was going to handle it – if it was complaint driven or if they actively went after violators and if it was decided to actively go after violators, more people would need to be hired. Mr. Eubanks pointed out that with the new standards, more and more businesses would be able to comply – either through a special use permit or rezoning - and there would be less enforcement pressures as time went by. Ms. Daley also pointed out that if those people who had been identified as not being in compliance worked with staff, that would also reduce the enforcement pressures. Commissioner Beatty asked if two years was long enough to give businesses to come into compliance and it was clarified that if they were working to comply, the two years would probably be more than sufficient to go through a rezoning process.

Commissioner Beatty summarized that although it was really sad there were a lot of businesses that were illegal, the County was trying to give them options to become legal, and moving forward it gave the Board some criteria to go by. Those businesses that chose not to use those options would then face the enforcement of the regulations. Attorney Bechtel also wanted the Board to be aware that the citizens who had initiated complaints against these illegal businesses also wanted to see results so there was pressure from citizens on both sides of this issue.

Commissioner Barger said he still had a problem with those cottage businesses that are not being allowed – he said he had no problem with appearance standards or noise standards – but he wanted to regulate the problem, not the business. Chair Barnes said one of the issues on the automotive businesses runs with environmental issues and it was a health and safety issue so there was a cost of not doing something about these businesses. Vice-Chair Hunsucker said when the people who came before the Board for a special use permit or rezoning, their operations should be looked at to see if they were environmentally safe.

Commissioner Barger asked how difficult and costly would it be for these illegal businesses to come before the Board to become compliant. Mr. Eubanks said it depended upon whether the double fee was adopted – otherwise it was \$625 for rezoning and \$425 for a special use permit and the time would be the same for any zoning request.

Chair Barnes clarified that with a cottage business, the owner needed to live on site or adjacent to the site. Mr. Eubanks confirmed this and said staff felt this was important because of the responsibility – good stewardship – if they own it and live there, they would take good care of it and be a good neighbor. This residency requirement still applies under the special use permit for a cottage business. This criteria is attached to a deed by the special use permit being recorded at the Register of Deeds and a title search would reveal this requirement.

County Manager Lundy listed the information staff would be compiling for the Board within the next few weeks:

- Cost of enforcement of the home and cottage business ordinance;
- Complaints the County has responded to, the nature and amount;
- Business operation permits/license, what do we require now, what do other counties require, what are the fees and how are they enforced;
- Grace period for fees/double fees, is it legally feasible to do so.

Mr. Lundy confirmed that this information would be compiled and provided to the Commissioners before the next work session which was proposed for December 11th.

November 7, 2006, MB#50
Special Session

Chair Barnes asked the Commissioners to let Mr. Lundy, Ms. Daley or Mr. Eubanks know of any other issues they wanted to discuss that were not raised at this meeting so that the issue could be researched prior to the next work session.

Chair Barnes adjourned the meeting by consensus at 1:11 p.m.

Katherine W. Barnes, Chair
Catawba County Board of Commissioners

Barbara E. Morris, County Clerk