

MINUTES
CHATHAM COUNTY BOARD OF COMMISSIONERS
CARY TOWN COUNCIL
JOINT WORK SESSION
SEPTEMBER 17, 2009

The Chatham County Board of Commissioners (“the Board”) of the County of Chatham, North Carolina, met in the North Chatham Elementary School, Multi-Purpose Room, 3380 Lystra Road, located in Chapel Hill, North Carolina, at 7:30 PM on September 17, 2009.

Chatham Officials Present: Chairman, George Lucier; Vice Chair, Sally Kost; Commissioners, Mike Cross, Carl Thompson, and Tom Vanderbeck

Cary Officials Present: Mayor, Harold Weinbrecht; Mayor Pro Tem, Julie Robison; Council Members, Don Frantz, Erv Portman, Jennifer Robinson, and Jack Smith

Chatham Staff Present: County Manager, Charlie Horne; Sustainable Communities Director, Cynthia Van Der Wiele; Interim Planning Director, Jason Sullivan; Environmental Resources Director, Fred Royal; Planner, Ben Howell; and Clerk to the Board, Sandra B. Sublett

Cary Staff Present: Town Manager, Ben Shiver; and Planning Director, Jeff Ulma

Agenda

- ✚ Welcome, Introductions & Purpose of Meeting
George Lucier, Chairman & Harold Weinbrecht, Mayor
- ✚ Presentation of the Joint Plan Recommended by the Subcommittee
Jeff Ulma & Jason Sullivan
- ✚ Discussion of the Joint Plan and Action
Sally Kost, Vice-Chair
Julie Robison, Mayor Pro Tem
- ✚ Status Update of Other Issues
Sally Kost, Vice-Chair
Julie Robison, Mayor Pro Tem
 - Western Wake Treatment Facility
 - Transportation Planning
 - Joint Planning with Orange County
 - Tax Issues
 - Comparison of Environmental Quality Regulations
- ✚ Comments from Joint Subcommittee Members
Sally Kost, Julie Robison, George Lucier
Jennifer Robinson & Erv Portman
- ✚ Consideration of Continuation of Joint Subcommittee

Sally Kost, Vice-Chair
Julie Robison, Mayor Pro Tem

Adjourn

WELCOME

Chairman Lucier welcomed those present. He stated that the last time both Boards met in May, they formed a Sub Committee to draft a recommended land use plan for Cary and Chatham County; that the Sub Committee which met several times during the summer to complete their assignment. He thanked the members of the Sub Committee and staff of both entities and praised their accomplishments. He listed his three major goals as follows: 1) Protect the quality of Jordan Lake; 2) Enhance the opportunities for economic development in this area; and 3) Ensure that the inevitable growth that comes to Chatham County works for the benefit of the citizens of Chatham County.

Chairman Lucier introduced Planning Board Members, Environmental Review Board Members, and staff members present.

Mayor Weinbrecht thanked everyone for attending and expressed appreciation for the time and efforts of staff and Council Members. He emphasized that the plan is a “recommended” plan and they will consider public input; that the fact that the two governing bodies got together and agreed on the recommendation is a great accomplishment; that it takes a lot of willingness and cooperation from both sides to find a common solution; and that he is proud of both boards.

PRESENTATION OF THE JOINT PLAN RECOMMENDED BY THE SUBCOMMITTEE

Jason Sullivan, Chatham County Interim Planning Director, reviewed the joint plan under construction. He stated that at the meetings on June 16th, July 14th, August 14th, and August 31st, the Joint Subcommittee worked through numerous plan options: Draft Plans: 1, 2a, 2b, 2c, 4a, 4b, and 5; that for each draft plan, the Subcommittee evaluated the breakdown of the acreage by type of land use and considered buildout forecasts that included number of dwellings, population, public school students, and employment; that through this iterative process, the Subcommittee narrowed in on the recommended Draft Plan #5.

Jeff Ulma reviewed the following time line went over the following time line and post adoption action and implementation steps as follows:

Proposed Schedule of Events – Consideration and Adoption of Plan

Joint Board Meeting		Sept. 17, 2009	
Community Meeting		November 2009	
Joint Subcommittee Review/Revisions		January 2010	
Plan for Public Hearings & Adoption Finalized		February 2010	
<i>Chatham County</i>			
Joint Board of Commissioners and Planning Board Public Hearing	March 2010	<i>Town of Cary</i>	March 2010
Planning Board Recommendation	April 2010	P&Z Board Public Hearing	May 2010
Board of Commissioners Action	April – May 2010	Town Council Action	June 2010

Post-Adoption Actions/Implementation Steps

- Creation and adoption of Design Guidelines (Chatham County & Cary)
- Rezoning of areas as needed to be consistent with the joint plan (Chatham County)
- Land Development Ordinance amendments – ephemeral streams (Cary)
- Other relevant policy & ordinance changes (Chatham County & Cary)

DISCUSSION OF JOINT PLAN AND ACTION

Commissioner Kost's comments, in their entirety, are as follows:

“First of all, I want to thank members of the subcommittee for their hard work:

- Mayor Pro Tem Julie Robison who co-chaired the subcommittee with me,
- Council members Jennifer Robinson and Erv Portman
- Chair of the County Commissioners, George Lucier

We locked horns a few time, but I believe the fact that we are here tonight, on-time and under budget, speaks to how we were able to work out our differences.

Since early June, we have met five times, discussing various land use maps – in fact, we pondered eight different drafts evaluating the breakdown of the acreage by type of land use, consideration of buildout forecasts that included the number of dwellings population, impact on schools and employment.

The process is one that both jurisdictions should be proud of. We know that Cary can develop into Chatham County without any input from the Chatham Commissioners, so we need to recognize Cary's cooperation and willingness to plan together.

We do have a mutual interest – and that is the protection of Jordan Lake.

Early in June, we agreed on the number one priority is protection of water quality in Jordan Lake, Cary's and Chatham's drinking water. To that end, we spent time comparing environmental regulations of Cary and of Chatham, to ensure that we both have stringent standards to protect the creeks and small streams that flow into Jordan.

There is about 10,800 acres in the planning area. Of this land, the map before you is recommending that 68 percent of the planning area be planned for an average of five acre lots. This includes land that is one mile from the lake, and also land that follows some of the major creeks that flow into the lake. The only exceptions to this is that in areas already developed, we tried to recognize the surrounding areas, and we tried to avoid any islands or pockets of higher density development.

During this process, the Chatham Commissioners held a public input session, where we received a great deal of information from citizens in the area. After reviewing these comments, many of the concerns that were raised can be accomplished by developing design standards to be overlaid in the area where the densities are higher. By creating these design standards, and having a process that involves citizens, I believe we can maintain Chatham's Land Conservation Development Plan that states that development in Chatham needs to preserve our rural character.

There were compromises, and I know that we all had to make concessions in order to reach agreement. Mayor Pro Tem Robison is going to go over the other subcommittee recommendations and then other subcommittee members may want to make comments.”

Councilwoman Robison thanked Commissioner Kost for her words of encouragement and stated that it has been a pleasure to have this authentic collaboration and she especially appreciated the opportunity to work with her, her colleagues, and staff. She stated that she felt that there has been great work done with everyone involved.

Councilwoman Robison reviewed the key decision points as follows:

- **Location and Size of the Mixed Use Area** – The Subcommittee considered the advice of a number of economic development professionals in selecting the size, location, and recommended mix of uses.
- **Rural Buffer Area** – This area is designated for low-density development that averages one dwelling unit per five acres, with no lot smaller than three acres. The rural buffer is also designated as an area where public water and sewer will not be provided.
- **Design Guidelines** – Design standards/guidelines will be developed that will be used by both jurisdictions to use in the design of new developments. The guidelines seek to ensure that future development is compatible with and helps to preserve the rural character and scenic quality of the joint plan area.
- **Protection of Ephemeral Streams** – Chatham County currently requires that ephemeral streams are buffered as part of the subdivision process. The subcommittee recommended that ephemeral streams should also be buffered in the denser areas of the joint plan area (using 30-ft. buffers), specifically within the area designated as two dwellings per acre.
- **Local Bill on Land Use Plan Amendments** – The Subcommittee recommended that both jurisdictions support local legislation that will require any future changes to the plan map or design standards, once adopted, be approved jointly by both boards.
- **Local bill on Transfer of Development Rights** – Chatham County requests the Town of Cary to support local legislation for a transfer of development rights option for the county and the municipalities.

Councilwoman Robison stated that she appreciated Councilwoman Robinson's move to approve the joint land use plan as a recommendation to the full committee which was seconded by Chairman Lucier; that she thinks it speaks well to the fact that they had a member of both boards to move and second the adoption plan. She stated that there was a second motion that fell in the same pattern. She stated that she could like to respectfully ask that both Boards consider each of these recommendations; that if there are questions and concerns about them, this is the time to open the floor to those.

Commissioner Kost stated that she had received some good information regarding Wildlife Corridors; that they agreed to 200 ft. buffers on each side of the Tobacco Trail; that she would like to agree on that now and perhaps revisit it as there is good data available on Wildlife Corridors and she would like some time to look at it. She also asked that the Boards to consider, buffering ephemerals in any mixed use area.

COMMENTS FROM JOINT SUBCOMMITTEE MEMBERS

Jennifer Robinson thanked everyone on the Subcommittee. She stated that they got through a lot of work in a short period of time; that she would like to reiterate to the Chatham County and Cary citizens, that this is a proposal, not an adoption, of a plan; that they welcome their input into their proposal; and that they hope citizens will feel comfortable talking to both boards with their concerns and ideas.

Erv Portman stated that the comments regarding regional cooperation stretches across all elected bodies recognizing that they do not have the ability to solve all of the problems individually; that they do live in an interconnected region; and the ability to do that is clearly the cornerstone of planning. That he is thankful to have had the opportunity to be a part of this living

example of effective regional cooperation where people with very strong opinions were able to sit down at the table and talk about it, share ideas, and respect others even if they do not always agree on specific points; that it is the basis of how our country works and the responsibility of elected officials in representing their communities; and that he is pleased with the work product brought forth and he looks forward to the deliberative process of public hearings in Chatham County and Cary as they expand the participation to do in order to craft the best possible plan. He stated that one of the highest responsibilities that local government has is their responsibility to be thoughtful and plan beyond what they actually see looking out 30-40 years.

Chairman Lucier echoed that it had indeed been a pleasure to work with everyone to develop the plan on which they can move forward through a formal public process to receive comments. He emphasized that the local bill for the transfer of development rights, Senate Bill 754, will be considered during the next session; that it will protect agricultural farm land in Chatham County; that Chatham County is the only farm in North Carolina where the farms are actually increasing and our rural agricultural heritage is incredibly important to us; and that the other is a local bill to be introduced by both boards to the State Legislature.

Commissioner Kost asked if there were questions from either board about the recommendations or specifics of the maps.

Commissioner Vanderbeck expressed concern that there had been a lack of affordable housing possibilities and development in this plan. He stated that Chatham County had worked a long time checking out the options of possible inclusionary zoning of mixed use to get a blend of diversity and build community of young and old, a mixed use of transportation of planning where people could walk to work, universal access, etc.

Councilwoman Robison stated that they mainly focused on the number of dwelling units per acre but that she thinks that the intention of having mixed use, mixed residential options is something that is still on the table to be defined.

Councilwoman Robinson stated that there are certainly opportunities for that; that affordable housing is often determined by the price of the land; that it is to be determined how/or if they will be able to get housing there based on what the market has; that they do not have the authority in Cary to require inclusionary zoning; that they have never received permission to take it to the State Legislature; and that is something they would not be requiring unless they change their laws.

Commissioner Vanderbeck stated that if Chatham County has opportunity to do it and if they are working jointly and cooperatively, that Cary would consider adopting it as they do.

Councilwoman Robinson stated that they were open to it.

Chairman Lucier stated that it was mentioned earlier in the process; that he brought it up in the early discussions of mixed use; and that Chatham County has a Compact Community Ordinance which includes requirements of affordable housing.

Councilwoman Robinson stated one thing that they might want to look while considering the plan is the location for institutions such as senior housing and they might want to determine if they want to select a mixed use for it.

Commissioner Vanderbeck stated that part of the unity is that the young could help the old; that they do not want to segregate certain parts of the community; that they can help out each other in all aspects.

Councilwoman Robison stated that it might be constructive, should the boards decide to continue the Subcommittee, to take a look at the data regarding housing and whatever plans are in place in Cary and in Chatham County, to become more familiar with what's on the perimeter and what the divisions are.

Commissioner Kost pointed out on the map, boundaries of land use designations. She stated that what they have said is that the changes to this map have to be agreed to by both parties; that she feels that the language needs to be reworked so that it reflects that; that it now

reads that the map can be tweaked without joint approval; and that she will not agree to that. She explained the specifics of the map and restated that all she is asking is that if they do deviate from it, they both agree to it.

Chairman Lucier stated that they had had that discussion about the mixed use area.

Councilman Portman stated that in that they had agreed to joint adoption of the changes, he thinks agreement would be required; that he recalls discussing this with regard to the mixed use area; that he has always felt that one of the good things about mixed use areas is that it is meant to be more “water colored than sharp penciled”; and that reflects the fact that equity centers on one side of the tract line and is colored one color versus another; that these are long-range comprehensive plans to look out 20-30 years as things happen; that as things occur, citizens are always free to come forward, call upon common sense and call upon the consideration of the governing bodies; that it calls upon common sense as they do not want gerrymander type districts, respecting, as much as possible, land uses; that they be kept somewhat contiguous, respecting as much as possible, existing land uses, and minimizing boundaries captured around areas; that it is common concept that the plan is based on goodwill and the ability for each board to review and consider changes if they make sense.

Commissioner Kost stated that she was not arguing that they need to have that flexibility; and that she is just asking that they change the wording to reflect their recommendations.

Councilwoman Robison stated that she did not think so either; that when she looks at the language around which the decision points were made, there is on the notes, an extra sentence that basically says it should be provided for “roughly the area”, “roughly the boundary”, and that it not stray unreasonably; that those are additions made by the Planning Staff, she expects jointly, and if it something that the Planning Staff wants to address, she would invite them to do so; and that she wants to clarify that that was not something that directly came out of their Subcommittee decision point.

Chairman Lucier stated that he feels that one way of fixing it is to make it clear that the changes to this map require agreement by both parties.

Councilwoman Robison asked how he proposed handling it, if he would like to add something to the boundaries language or they just agreed that the joint plan adoption and any amendments take care of that issue.

Chairman Lucier stated that he thought they could make explicit to map and add an extra sentence.

Councilwoman Robinson stated that she thought they were talking about having a process in which the plan can be amended; that the staffs weigh in on it and talk with them about it; that the practicality of doing that and how we will go about it; that on occasion they get rezoning requests that come with a comprehensive plan amendment and she wonders how that will apply in this situation.

Mr. Ulma stated that the Subcommittee talked about the fact that you’re at 30,000 ft. drawing boundary lines and they are plus or minus; that the fact that the Subcommittee would adopt the plan jointly and then change it together and agree to make those changes would cover any adjustment of those boundaries; that they saw that as a safe guard to how the Subcommittee would look at any boundary changes.

Commissioner Kost stated that she didn’t understand why there would be any objection to adding one simple sentence that makes it clear so that it is on the map.

Mr. Ulma stated that part of it isn’t on the map; that it is a process part that isn’t included, but the Subcommittee could add it to the notes the other recommendations; that some of the discussion points, they had a difficult time figuring out where they go; that some are actually map changes that can be seen with a 200 ft. line or ephemeral stream boundary; that those have to be covered in words, and others are shown on a map and are represented; that they could, through this process, could be considered and added to the mix so that the plan could move forward.

Mr. Sullivan stated, as far as adjusting the note, it probably would help to add clarification on that particular note; that as far as having the language on there, it does help the boards to know that the boundaries are not fixed, but clarifying as they move forward that both boards have to agree to those changes.

Chairman Lucier reiterated that all they have to do is agree that any changes to the plan will be approved by both parties to work out processes, etc. He stated that for the purpose of bringing them forth for public input, he thinks it needs to be clear that the intent of this body is, in fact, to agree on it.

Mr. Ulma explained that it was in the note of "Joint Plan Adoption" already.

Councilwoman Robison stated that she agrees with Mr. Ulma that the "Joint Plan" spells it out clearly and that as that bilateral mechanism is further defined, it becomes even more clear; however, regarding Ms. Kost's point, she would suggest that under "Boundaries of Land Use Designations", that they simply add a short statement that any changes will be subject to the bilateral amendment mechanism. She asked if both Boards could agree to that.

By consensus, both Boards agreed.

Councilwoman Robison continued by stating that the next round of this and any further discussion will incorporate the statement that says, "Under Boundaries of Land Use: Any changes will be subject to the bilateral amendment mechanism."

Councilwoman Robison raised one more issue. She stated that under location, "Specifics Notes and Details" that the American Tobacco Trail buffer, the note states that there should be a 200 ft. natural buffer adjacent to both sides of the American Tobacco Trail; that she recalls in their discussions, that she believes that they were more definitive in their discussions and talk about their requirement. She asked what the others remembered.

Councilwoman Robinson stated that they looked at it as a requirement so the wording should be changed that a 200 ft. natural buffer will be required adjacent to both sides of the American Tobacco Trail.

Mayor Weinbrecht stated that there should be at least a 200 ft. buffer.

Councilwoman Robison stated that she thinks the plan would be that a 200 ft. natural buffer adjacent to both sides in the American Tobacco Trail is required.

Councilwoman Robinson stated that it should be a minimum of 200 ft.

Councilwoman Robison stated that that would give the option for more. She asked if everyone had had the opportunity to look carefully at the land around Pittard Sears Road, Amberly, and south of the old Chatham Golf Club.

Commissioner Kost stated that she did raise a concern that they reflect what they agreed on; that she did get back with staff and they reviewed staff notes; that is actually what they agreed to; that they were making the changes at the last minute and making some adjustments; and that they were also reflecting the change to the Amberly Development.

Chairman Lucier stated that he didn't think they required a formal vote on this as they are not adopting anything tonight; that what they are doing is agreeing to move forward with the process outlined by the staff.

By consensus, both boards agreed to move forward through the public process outlined by staff earlier in the night with the plan, realizing that they still have work to do and that the Subcommittee will have to return after the public input session and perhaps make some revisions.

DISCUSSION OF OTHER ISSUES

Commissioner Kost stated that their plate has been full; that there has been more than just the Land Use Plan; that there were other issues that were assigned to them to discuss; and that they want to update the Boards and ask that the Subcommittee continue. She addressed the following issues:

Transportation Planning:

Commissioner Kost stated that she feels that they have a good handle on transportation planning; that they put in a request to the Durham-Chapel Hill-Carrboro MPO for the parking lot at the American Tobacco Trail; that they were able to get them to agree to \$245,000 congestion/litigation monies; that she did go to battle on behalf of the Town of Cary; that they agreed to and are recommending that Cary not take a formal seat at the table of the MPO but instead that we work together and communicate and she report back; that the Cary staff needs to be involved; that they will keep them in the loop; that she thinks that with CAMPO, they had their plate full, as well; that they will be starting the 2040 Long Range Plan very soon; that Cary will need to be involved in making sure that their adopted transportation plan is incorporated into the Long Range Plan.

Councilwoman Robison stated that the issue of the their plan and the Site Guidelines, she is wondering if there is any provision for any particular bicycle or pedestrian plan; that there has been an announcement that there are grant opportunities; that while Cary has a current plan in place, she does not know if that plan has been fully developed, explored, and/or validated in the area where there is joint use; that she wonders if that is something they need to pursue jointly at a later time.

Revaluation Issue:

Commissioner Kost stated that with regard to revaluation and the impact on Chatham/Cary residents will need to be addressed; that Chatham has three more years before the next revaluation; and they have a little time.

Councilwoman Robison stated that there have been a lot of concerns expressed, especially to Ms. Robinson, from residents of Chatham County that are in the Carolina Preserve about the lack of cell phone coverage; that it concerns her that this is a public safety issue that they may want to put on a list in terms of how to solve.

Councilwoman Robinson stated that she had spoken with several people who live in Chatham County/Cary who voiced concern with regard to their cell phone coverage; that they met with a cell phone tower provider that was looking for a location; that it is her understanding that they may be locating a cell phone tower at Mill's Park site in Cary Pond; that it is not far from Amberly in which people are also suggesting that they use their clubhouse for a stealth cell phone tower on which they are working with the Town Manager to bring the providers to the table.

Councilwoman Robison asked if this was a joint issue.

Chairman Lucier stated that Chatham County does have a Cell Tower Ordinance at which they bring to public hearing each year; that they try to encourage providers to bring service out of those areas; that that can be done as part of the public hearing process.

Councilwoman Robison suggested that they add that and asked Councilwoman Robinson to take lead on it. Councilwoman Robinson agreed to coordinate the effort.

Western Wake Treatment Facility:

Chairman Lucier stated that it was his understanding that Cary is still looking at two options for the discharge line; that one is in Harris Lake and the other would go through eight miles in Chatham County; that they pursuing, at this point, both; that it would probably be a good idea for the Cary Town Council to formally request the Chatham part which has never been done. He stated that a letter was sent to former Mayor Weatherly and copied to Mayor

Weinbrecht about the time he was taking office; that he has a copy of the letter available that was sent eight or nine months prior.

Councilwoman Robison asked the Town Manager if the Subcommittee continues, if that would be a topic that could be on the next agenda. Mr. Shivar stated that it could.

Comparison of Environmental Quality Regulations:

Commissioner Kost stated that they could provide to both Boards, the document that they used very early in the process that does a side-by-side comparison of the two ordinances; that she thinks that it will address the concerns and the charge that the Subcommittee had; that the other issue was the joint planning with Orange County; that she has not word to date; that the one other small issue that they asked if they could work with staff on is one that came up with Chatham staff this week; that it is very confusing when builders build in Chatham County because Chatham has Cary, Apex, Sanford, Durham, New Hope, and Chapel Hill addresses; that when goods are delivered, especially to construction sites, they pay sales tax to where the goods are delivered; that they are very suspect that those building supply companies are crediting Wake County with that sales tax; that they would like to provide information, at the time of building permit, so that it can be explained to them that this is a job site in Chatham County and the sales tax needs to go to Chatham County. She asked to have the Chatham and Cary staff work together so that some way can be developed to make sure that the builder is aware that the development is indeed in Chatham County in order to receive the sales tax revenue. She stated that she had contacted Pulte Homes to find out their procedure/process.

Councilwoman Robison asked that follow-up be done on this matter.

Mayor Weinbrecht stated it seems that the Subcommittee's has already filled its plate and that it is over flowing; that if they are up to the challenge, he recommends that they continue with the joint Subcommittee and continue the good work that they have seen so far; that he thinks they are picking up momentum; that he thinks that they have some good items that are very important to both boards; that he appreciates everyone coming this evening; that the plan they talked about earlier will have a lot of public input opportunities; that what they are moving toward will also have a lot of public input opportunities; and these are open meetings and citizens are welcome to attend. He thanked both Boards for being in attendance.

ADJOURNMENT

Chairman Lucier adjourned the meeting at 8:59 PM.

George Lucier, Chairman

ATTEST:

Sandra B. Sublett, CMC, Clerk to the Board
Chatham County Board of Commissioners