

Minutes of the Chatham County/Cary Joint Issues Committee
December 11, 2009
Bond Park Community Center
801 High House Road
9:00 a.m.

Present: Co-Chairs Sally Kost and Julie Robison and Members George Lucier, Jennifer Robinson and Ervin Portman

Cary Staff Present: Town Manager Ben Shivar, Assistant Town Manager Mike Bajorek, Public Information Officer Susan Moran, Planning Director Jeff Ulma, Engineering Director Tim Bailey, Planning Manager Philip Smith, Principal Planner Scott Ramage, Associate Director of Engineering Lori Cove, Town Attorney Chris Simpson, and Administrative Secretary Cindy Giebel

Chatham County Staff Present: County Manager Charlie Horne, Director of Sustainable Communities Development Cynthia Van Der Wiele, Public Works Director David Hughes, and Planner Ben Howell

The proposed agenda follows:

- I. Approval of the agenda
- II. Approval of the August 31, 2009 minutes
- III. Review results and observations on the two public meetings conducted and comments received on proposed Joint Land Use Plan
- IV. Status of WWRWF Easement Request
- V. Establish subcommittee's future work plan
- IV. Adjourn

Kost called the meeting to order at 9:10 a.m.

I. Approval of Agenda

ACTION: Robinson moved and Lucier seconded the approval of the agenda. Committee unanimously approved the motion.

II. Approval of the August 31, 2009 Minutes

Below is a verbatim account of the discussion pertaining to the August 31, 2009 minutes:

Kost: There is a couple of areas I think that we need to clarify. It's not that the minutes don't capture what we discussed, but I think there were some other points. One, dealing with the American Tobacco Trail and the 200 foot buffer. Because the way this is written you could take that to mean that means all lands along the Trail. And I think what we were talking about is new development on the trail. And so I think we need to clarify that in the minutes.

Kost: The other is when it's talking about the design standards. There is a note in here that '*Kost stated most comments pertaining to design standards... she'd like to see them look similar to Fearrington Village...They will ask their staffs to work on design standards in an overlay district after the land use plan is adopted.*' I never said that. I didn't say it's after the land use is adopted because I think that they need to be concurrent and it's probably a point we need to discuss at some point.

Kost: I have some word changes as well.

Kost: And then, this is on my Page 3 under decision points when we're talking about the rural buffer zone, it's talking about what that means to be a rural buffer zone, and on our maps we talk about how utilities could be brought in in a case of an emergency. I know, for example, the Hills of Rosemont had concerns about water – if they had well failure. And so on the materials that we've distributed to the public we make that caveat, so I think our minutes need to reflect that as well.

Kost: I've got a few other wordsmithing.

Kost: Those were the general comments. What I would ask is we get any other comments on the table and that we postpone approval of these minutes so that I can distribute all the changes so that you can see them in context. But, I couldn't do it with the file from the internet; it was just too much work.

Kost: Are there any other changes?

Portman: I just have a couple of clarifying questions. I guess one for our staff. When we have a buffer designation – I know we talked about along the American Tobacco Trail (inaudible words), would we not lay that out as a buffer on the plan, and would it not affect both existing and new development?

Ulma: Yeah, I don't think we'd make a distinction.

Portman: And the issue there is if you make a distinction (inaudible), does that mean that somebody could – with existing property encroach on that buffer?

Kost: Well, the way I had understood it all along was that this was buffer. If in fact that is what was meant by that, then we need to vote on it, because I won't support that. Because, I think you have in the (inaudible) Rosemont you already have platted subdivisions, you already have people who have their property; they have their plans and how they're going to build the property; that's already been established. And I would not impose that 200 foot buffer on those residents. So if that is what this meant – I do not think that's what was meant. I had asked staff for clarification and had gotten a different answer, so if that is indeed what we meant, then I think we need to revisit it.

Portman: We could, and I guess the issue is the minutes are the result of that meeting. And if there's any confusion or we're not comfortable with something from that meeting, we can always revisit that issue and discuss it and make sure that everyone feels it makes sense. But the minutes should still reflect what that meeting said.

Kost: And I absolutely agree. But there are points here in these minutes for things that we really didn't say but do clarify. There are other examples in here that do that.

Robison: Could I make a suggestion? We – our meetings are recorded. And I think that if there are a couple of points that we need to go back and listen to them, we can do that. And, are – is the recording on-line yet even though the minutes aren't approved? We can clarify that, but – so why don't we give ourselves a couple of pieces of homework until the next meeting. One is, Sally, go ahead and share your comments; and two, let's make sure that the accuracy is there and that we agree upon that. And then let's flag these items such as this rural buffer zone, and then have a focused discussion on it. And if the minutes do not reflect what everybody's understanding is – once we determine they're accurate – then we can revisit that and reestablish a decision point.

Kost: Right, but my point is, and I want to make sure that it's clear, is that the minutes – and I understand we can go back and listen and we can – but there are other points in these minutes

that clarify other points. The things weren't actually said, but they went back and clarified. So (interrupted)

Portman: To the extent you feel that those that don't reflect the meeting – of course – suggest changes to the minutes. If the rest of us recall the meeting the same way, then we'll adopt the revised minutes. The distinction I'm making here, I guess, is that the minutes, of course, reflect the meeting.

Kost: Absolutely

Portman: And if there are interpretations that are different, those issues can be revisited.

Kost: I understand

Lucier: Yeah, I think your suggestion is a bit (inaudible) and we should go ahead with this and see what was said. My recollection is we really didn't discuss whether development was – you know – an existing development or a new development. I don't think we got into that level of detail with reality, so I think it is a point for discussion. I think that's where we'll come out on it.

Kost: I agree with that. So we will not take action on the minutes, and each of us will follow up. I will go back and listen to that particular part – I'm not going to listen to the entire minutes; but I will go back and listen to that (inaudible).

Robison: Sally, why don't I just also commit to listening to the minutes, and perhaps the two of us could have a discussion after we've had a chance to listen and plan what needs to be brought back to the group. Does that work?

Kost: That works

III. Review results and observations on the two public meetings conducted and comments received on proposed Joint Land Use Plan.

Kost stated today is the last day for people to submit comments, so it's important to note that all comments have not been compiled.

Howell presented information from the two community meetings. He said there were 60-80 attendees at each meeting, and about 30-40 comments were submitted. He outlined the following main concerns that people expressed:

- The American Tobacco Trail Buffer: Most concerns were from Rosemont residents.
- The Mixed Use Area: Numerous concerns were heard, but some people also think it is a good idea.
- Rural Buffer Boundary Line: Some people thought it was an automatic annexation line showing that Chatham County was already succeeding land to Cary. Staff has since explained that it is not an automatic annexation.

Lucier stated he is not aware of any concerns about the rural buffer itself, but rather what it might mean in terms of annexation.

Howell said density was not a major issue; a lot of people liked the way the land was depicted on the map regarding the number of dwelling units per acre. The issue seemed to be more with the rural buffer boundary line itself and the language about the urban services coming to the line or beyond it in emergency situations. He added that some citizens wanted the line further east.

Robinson said she heard from a few people who wanted the boundary line near New Hope Church and Mount Pisgah Church Roads. She said some people are concerned about the dramatic transition between the mixed use area and the one-unit per five acres.

Kost stated she attended both meetings, and she heard from both sides. She said she heard concerns about a trail that is shown on the map going through the US Army Corps of Engineers land, because that is wildlife land. People felt that it's incompatible to have hiking land on game lands. There were also concerns about placement of schools. She explained to these individuals that with this plan they recognize the need for parks and schools. She heard numerous concerns about the mixed use area, including environmental, transportation and the impact that this type of density in Chatham County will have on the Greenlevel community in the southwest area plan. She did not hear many concerns about the one-house per five acres, except for a couple of property owners on New Hope Church Road, who feel that density is not appropriate, and they voiced their preference for at least two-units per acre.

Kost said the main concern she has heard from residents of the Hills of Rosemont and from Markham Plantation is the ATT 200-foot buffer. They are concerned because the trail construction destroyed a lot of natural canopy and vegetation between the trail and their homes. They want replanting along the trail to provide a buffer. They also believe that a 200-foot buffer will intrude on plans that property owners have for their properties.

Kost said some Hills of Rosemont residents expressed concerns about being able to connect to utilities in the rural buffer zone area if they have problems with their systems. Kost thinks it's clear in the Plan Notes and Details on draft plan #5 that extending utilities can be considered in the event of failures in the rural buffer zone. She read from the Note: "Public utilities may be provided when necessary to rescue a property having a failed private well or sewage treatment systems, provided that both the Town of Cary and Chatham County agree to the rescue".

Ulma said that while staff was working on the plan, they understood that the committee wanted utilities provided to the green areas to the south along the county line, including Turtle Creek subdivision, and north and west of Amberly. After the meeting, staff was not clear whether that was true on the northern end, so staff pulled the rural buffer line back in. Staff did not know whether to include the Hills of Rosemont. Staff pulled the line back to be more conservative and left all the green except one subdivision that is surrounded by two-units per acre as in the rural buffer.

Portman believes clarification is needed, because the urban service area somewhat prohibits planning for that infrastructure. He added that it could be cost prohibitive to extend infrastructure to certain areas, and residents would be responsible for that cost.

Howell said that language pertaining to this line states that in the event "a" property... fails. He questioned what would happen if the entire Hills of Rosemont subdivision experienced well failure. He suggested clear language to specify exactly who is covered.

Lucier thinks it's clear that either "a" property or "multiple" properties is covered by the Note.

Robison believes this is an important issue and should be discussed further at a future meeting.

Kost heard from property owners along Pittard Sears Road close to the intersection of O'Kelly and Pittard Sears Roads, that they want a higher density than the current two-units per one acre. She stated she attended a community meeting with the residents of Chatham Glen, which is adjacent to this area, and they are concerned with the density.

Lucier stated the Chatham Board of Education wants to make sure there are areas allocated for schools so they can begin looking at trying to acquire property. He stated they did not tell him where they prefer future schools, and at some point in the future this needs to be clarified. He said the school board generally concurs with the plan, but they are concerned that as the area grows it becomes more expensive for them to provide bus transportation. As a result, the school officials would like this group to plan for a school in this general vicinity.

Robinson said if school locations are identified on the map or if land is actually acquired, then this area becomes more attractive. She thinks it's currently an impediment that there is no school in this vicinity that keeps people away from this area.

Kost heard concerns about pedestrian and traffic safety at the ATT crossings at O'Kelly Chapel and New Hope Church Roads. She stated warning signs have been erected at the crossing area, and she asked the plans and timetable for including pavement markings on the road. Also, the current speed limit in this vicinity is 55 mph, and she would like the North Carolina Department of Transportation (NCDOT) to reduce the speed limit on both New Hope and O'Kelly Chapel Roads at that location. She said even though the trail is not officially open, many people are utilizing it, and she has witnessed near accidents. She stated Chatham officials may come to Cary and ask the council to pass a resolution requesting that DOT reduce the speed limit at the trail crossing.

Shivar stated the ATT will cross three roads: New Hope Church, Pittard Sears, and O'Kelly Chapel Roads. He said on the trail preceding the roads as walkers come up the trail there will be stamped colored asphalt as a warning sign. He added that on the roads themselves there will be thermoplastic crosswalk warning signs to meet NCDOT standards. He stated staff indicates the project should be finished and opened to the public by the end of this month.

Cove stated DOT has investigated the speed limit on O'Kelly Chapel Road and at that time DOT determined that 55 mph was the appropriate speed limit until something changed in that area.

Lucier thinks people using the ATT is a change that should be considered by DOT.

Portman suggested that this committee consider a resolution to DOT at the next meeting.

Robinson suggested that the Chatham and Cary officials work with the metropolitan planning organization for possible pedestrian funding for a grade separated crossing.

Robison has received comments from citizens wanting the one unit per 5-acres to remain one-unit per 10 acres. Lucier stated Chatham officials received a lot of opposition to the one-unit per 10 acres, because they thought it was too restrictive and they want consistency on both sides of the lake.

Robison has heard people question what this committee is doing to take into consideration the need to project the implications for future development north of this particular joint plan boundary. She said this Durham County 751 Assemblage will impact water quality, densities, scope, scale, and transportation in that area. She stated this area would most likely become a main north/south thoroughfare. She believes this type of development would result in significant degradation to the lake, and it would be detrimental to what this group is doing to protect water quality. She stated this is not a discussion issue at this time but just a topic that the group should think about.

Lucier reported that the Chatham County Commissioners are on record opposing the redrawing of the Jordan Lake boundary lines based on a survey that was prepared by the developer. They believe this type of change should only be made by an independent survey, paid for by the developer and overseen by Durham officials. He stated the state has not considered Chatham County's request in this matter.

Robison said that a comment was made from Durham County that Chatham County has been active in communicating their concerns about this but they have heard nothing from Cary. She thinks the pressure for Cary to take a position on this issue is increasing.

Kost said Chatham County is focused on the environment impacts of the 751 Assemblage, but there are numerous other negative impacts. She stated the proposed development contains 500,000 square feet of retail and 1,500 houses right on the county line. She explained that this

proposal originally had a valid protest petition, but prior to the vote the staff said it was invalid. The rezoning was approved by a 3-2 vote. After the vote it was determined that the protest petition was valid. At that time the Durham officials determined they would not revisit the issue since they had already approved it. She stated it's a very complicated issue that has a huge impact on northeast Chatham County and this joint plan. Kost said this is a Durham County issue but will eventually become a Durham City issue. She stated it's important to convey the position to both governments.

Robinson thinks the environmental impacts need to be addressed. She does not know if this group has a voice in the densities and the land use issues. She thinks this group should focus on the degradation of the lake and respond appropriately.

Lucier suggested the Cary council formalize their position on this issue. After that, he stated both boards could potentially adopt a joint resolution. He stated Horne will provide the Cary officials a copy of the resolution that Chatham officials adopted.

Robison stated the Cary committee members will bring this issue to the Cary council.

The group agreed to consider the public comment received and appropriately tweak the plan before the formal process begins. Kost agreed with Lucier and believes that's why the two public input sessions were conducted.

Kost also thinks additional clarification may be in order regarding the 200 foot ATT buffer.

Lucier stated the Chatham County Economic Development Corporation supports the general area on the map designated as Institutional. He stated they will provide formal comments during the process.

Portman shared feedback from a Cary resident that thought the joint land use plan is only being done because Cary wants it and that Chatham County does not want it.

Lucier said the whole concept of a joint plan started before he was a county commissioner. He thinks this joint plan is a consequence of Cary's annexation into Chatham County.

Kost said Chatham started with the proposal of one-unit per 5-acres, and they compromised to this plan. She stated this is part of working together. She would have preferred that Cary stay out of Chatham County. However, there is going to be tremendous growth pressure on this area, and the elected officials now need to undertake this joint planning process.

Lucier's goals are to protect the lake, ensure Chatham County does not miss out on employment opportunities, and ensure that any Cary annexation in Chatham County is in Chatham County's best interest.

Kost added that another goal is to maintain the high quality life in Chatham County by ensuring responsible growth.

Robison thinks this committee's work has been authentic and has raised real issues and allowed both groups to jointly work through those issues.

Portman is sensitive that this plan primarily benefits the property owners in Chatham County, and it impacts what they can do with their land.

Robinson wondered how to balance the concerns over the mixed use with the desire to have the opportunity for economic development in this community; she believes that an entire meeting should be held regarding this issue.

Lucier thinks there is some misunderstanding in the community about the blue area on the map comprised of about 450 acres and designated as commercial. He said this area is not a commercial center, but rather is an employment center area that will have a higher density of housing around it with a small amount of commercial. Howell added that this area is 218 acres of office/institutional/employment center, 200 acres of residential and 24 acres of commercial.

Portman stated the elected officials will hear from those with strong feelings for and against elements of the plan. He wants to focus on any new and compelling information that might prompt this group to want to modify the plan. If so, then the group should entertain modifications to the plan. If not, then the groups should move the plan forward through the formal adoption plan and obtain additional public feedback.

Ulma said staff will compile the feedback through this comment period, and at the next meeting staff will identify specific comments and provide recommendations on how the group might want to proceed.

Lucier and Kost think the group should move the design standards forward along with the plan to help people understand and address their concerns.

Robinson believes design standards will help address concerns about how the mixed use project will impact property, roads and schools. She thinks this group should highlight what they view to be the biggest concerns. As an example, she stated one of her biggest concerns with the mixed use is the issue of transition. She'd like this group to direct the staffs to make provisions for those transitions either through design standards or a map change to ensure a smoother transition.

Kost is glad that design standards and the land use plan will go hand in hand instead of getting the land use plan done and then working on the design standards. She sees it as one process. She said the only reason she agreed to the mixed use area on the map was because Chatham was taking the lead on developing the design standards. She thinks the design standards will address many citizen concerns.

Portman stated the issue of transition might be addressed by design standards. He views the mixed use area as a clustering concept where, unless you're in it, you don't see it. He thinks this will be addressed in the design standards. He stated it's possible for people to envision different things when looking at the map. He hopes the design standards will help with this.

Ulma said staff's concern is that developing design guidelines for an area is a whole new project that takes typically a year or more to develop. There has not been any discussion on that until now. Staff suggests that the group agree on design principles or components of design, which can run concurrently with the plan. He stated full design guidelines will not be ready to move forward with this plan.

Portman suggested that Chatham take the lead and develop some design principles for the committee to review. He thinks this could help people understand development constraints. He stated this is only a comprehensive plan, and nothing can happen until the area is rezoned. He stated this plan only guides future rezonings. He stated the staff needs these guiding principles in order for the Chatham staff to move forward with developing the full design guidelines.

Robison stressed that the group should ensure they allow adequate time to establish the full guideline standards.

Kost summarized that staff will bring back all the public comments in an organized manner to help the committee make the appropriate decisions regarding potential adjustments to the map.

Lucier said part of the agreement was to request a local bill in the state legislature for changes to joint land use plan to require approval from both parties. He stated Speaker Hackney is ready to move this issue forward, but he needs a joint statement from Chatham County and Cary.

Portman suggested that the staffs draft a resolution for review at the next meeting.

IV. Status of WWRF Easement Request

Steve Brown said a calendar has been developed with a timeline for easement acquisition, and decisions are needed in the March time frame in order to proceed with the schedule. He said the Environmental Impact Statement (EIS) will be published next Friday, and construction is expected to begin by August.

Kost thought that the preferred location of discharge was Harris Lake. Brown said the discharge option presented in the EIS is the Cape Fear River. He said Harris Lake is still a possibility, but the time frame necessary for that option may not be feasible.

Robinson stated Cary is pursuing the two options in tandem. Some council members prefer the Harris Lake option, but they realize that the time line may be problematic with the schedule.

Brown stated the Harris Lake option has not been totally abandoned; it's still a possibility and staff continues to meet with state officials about this option. He stated it would take a while to get through the required state processes to be able to discharge to Harris Lake. He stated there is a reference to this in the EIS, but it would take a different parallel process and an addendum to the EIS.

Robinson stated Cary will continue pursuing the Harris Lake option, but everyone should understand if that doesn't happen we need to be prepared for the Cape Fear option.

Lucier said Chatham County's plan is to discuss this issue at one of their January work sessions or at their retreat, and they expect to submit comments to Cary officials in March. They will also have conversations with Pittsboro officials about the location that's most logical if they wish to tie to the system. They will also take this time to learn of any EIS requirements.

Portman asked the Chatham officials to determine their future needs for capacity as it relates to this system and share them with the Cary council. He stated the sooner Cary knows, the easier it will be to incorporate any potential changes. Brown stated Cary needs to know by this time next year if a change in the pipeline flow will be needed in order to stay on schedule, because it will be a design change and some of the pipeline is custom-made for the project.

Kost said a lot of line in Chatham County is on vacant or Progress Energy land, and there may be an opportunity to develop trails after acquiring easements.

Robison suggested establishing a timeline for key decision points and dates pertaining to the WWRF issue and integrating that into the WWRF timeline and action plan.

V. Establish subcommittee's future work plan

Kost and Robison will meet and prepare an action plan and comprehensive timeline so that at the next meeting the group can review the outstanding issues with the proposed timeline.

The commission scheduled the next meeting for Thursday, February 4, 2010 at 9:30 a.m. - 11:30 a.m. at the Cary Fire Station #7 (if the location is available).

The co-chairs adjourned the meeting at 10:51 a.m.