

**MINUTES**  
**CHATHAM COUNTY BOARD OF COMMISSIONERS**  
**REGULAR MEETING**  
**FEBRUARY 21, 2011**

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The Board of Commissioners (“the Board”) of the County of Chatham, North Carolina, met in the Central Carolina Community Library, 197 Highway 87 North, located in Pittsboro, North Carolina, at 6:00 PM on February 21, 2011.

Present: Chairman Brian Bock; Vice Chair Walter Petty; Commissioners Mike Cross, Sally Kost, and Pamela Stewart

Staff Present: Charlie Horne, County Manager; Jep Rose, County Attorney; Renee Paschal, Assistant County Manager; Vicki McConnell, Finance Officer; Elizabeth Plata, Deputy Clerk to the Board; and Sandra B. Sublett, Clerk to the Board

**PLEDGE OF ALLEGIANCE AND INVOCATION**

Commissioner Petty delivered the invocation after which the Chairman invited everyone present to stand and recite the Pledge of Allegiance.

**CALL TO ORDER**

The Chairman called the meeting to order at 6:05 PM.

**APPROVAL OF CONSENT AGENDA AND REGULAR AGENDA**

The Chairman asked if there were additions, deletions, or corrections to the Agenda and Consent Agenda.

The Chairman asked that:

- Item #14, Approval of a request for a revision to an existing conditional use permit by Colvard Farms Homeowner’s Association, located at 9310 NC Hwy. #751, for multiple revisions, be removed from the Consent Agenda and placed on the Regular Agenda for discussion.
- Item #17, Presentation and approval of Resolution Honoring the Service of Emily Foushee be deferred until the next Board of Commissioners’ meeting.

Commissioner Cross moved, seconded by Commissioner Petty, to approve the Consent Agenda and Regular Agenda with the noted requests as follows:

1. **Minutes:** Approval of Board Minutes for Regular Meeting held on February 7, 2011 and Work Session held on February 7, 2011

The motion carried five (5) to zero (0).

2. **Tax Releases and Refunds:** Approval of a request to approve the tax releases and refunds, attached hereto and by reference made a part hereof.

The motion carried five (5) to zero (0).

3. **Child Care Networks Contract:** Approval of Child Care Networks Contract with the Department of Social Services for Fiscal Year 07/01/11 – 06/30/2012, attached hereto and by reference made a part hereof.

The motion carried five (5) to zero (0).

4. **Agreement with Schools for Construction Management Services:** Approval of agreement between Chatham County and the Chatham County Board of Education to share construction management services, attached hereto and by reference made a part hereof.

The motion carried five (5) to zero (0).

5. **Grant Funds Acceptance for H1N1/Public Health Emergency Response:** Approval of a request to accept grant funds in the amount of \$16,000 from the State for H1N1/Public Health Emergency Response

The motion carried five (5) to zero (0).

6. **Grant Funds Acceptance for H1N1/Public Health Emergency Response:** Approval of a request to accept an additional \$64,000 in grant funds from the State for H1N1/Public Health Emergency Response

The motion carried five (5) to zero (0).

7. **Environmental Health Budget Reduction:** Approval of a request for a budget reduction of funds in the amount of \$990 in the Environmental Health Volatile Organic Compounds testing

The motion carried five (5) to zero (0).

8. **Acceptance of Funds for the Health Department:** Approval of a request to accept funds in the amount of \$1,000 from the Chronic Disease and Injury, Diabetes Prevention and Control awarded to the Health Department to increase access to diabetes self-management education to residents of North Carolina

The motion carried five (5) to zero (0).

9. **Naming of Private Road:** Approval of a request from citizens for the naming of a private road in Chatham County as follows: Chile Pepper Drive

The motion carried five (5) to zero (0).

10. **Architect Contract for Construction of Jail:** Approval of a contract with Hemphill-Randel Associates as architects for the Chatham County Jail

The motion carried five (5) to zero (0).

11. **Preliminary and Final Plat Approval:** Approval of a request by Bill Mumford, Assistant Vice President on behalf of NNP Briar Chapel, LLC for dedication of public right-of-way for a portion of Granite Mill Boulevard and a portion of Boulder Point Drive, located off SR #1528, Andrews Store Road, Baldwin Township

As per the Planning Department and Planning Board recommendation (by a vote of 9-0 with 1 abstention), the request was granted for dedication of right-of-way for a portion of Granite Mill Boulevard and a portion of Boulder Point Drive as shown on plat dated December 2, 2010, prepared by McKim and Creed; granted approval of the road names, Granite Mill Boulevard and Boulder Point Drive, and granted approval of the financial guarantee with the following condition:

1. The mylar copy of the final plat show the line segments and curve revisions as noted in an email from Curtis M. Blazier, PE, dated January 31, 2011.

The motion carried five (5) to zero (0).

*Items continued from January 18, 2011 Public Hearing:*

12. **Text Amendment to Chatham County Zoning Ordinance by Lauren Thomas:** Approval of a request for a text amendment to the Chatham County Zoning Ordinance by Lauren Thomas to reduce the minimum acreage requirement for daycare centers in the principle residence.

As per the Planning Department and Planning Board recommendation, approval of **An Ordinance Amending the Zoning Ordinance of Chatham County** to reduce the minimum acreage requirement for in-home daycares from three (3) acres to one (1) acre with all other requirements remaining was granted.

The motion carried five (5) to zero (0). The Ordinance is attached hereto and by reference made a part hereof.

13. **Revision to Existing Conditional Use Permit by McGill Environmental:** Approval of a request for a revision to an existing conditional use permit by McGill Environmental located at 634 Christian Chapel Church Road, Parcel #5596, to add a modular office building to the site

As per the Planning Department and Planning Board recommendation, approval of **Resolution #2011-10 Approving an Application for a Revision to an Existing Conditional Use Permit by McGill Environmental Systems of NC, Inc.**, amending the existing conditional use permit was granted with the following condition:

1. All previously approved conditions as stated shall remain valid and in effect with the approved revision.

The motion carried five (5) to zero (0). The resolution is attached hereto and by reference made a part hereof.

- ~~14. **Revision to Existing Conditional Use Permit by Colvard Farms Homeowner's Association:** Approval of a request for a revision to an existing conditional use permit by Colvard Farms Homeowner's Association, located at 9310 NC Hwy #751, for multiple revisions~~

This item was removed from the Consent Agenda and placed on the Regular Agenda for discussion.

15. **Resolution to Declare Surplus Property:** Approval of a request to adopt a **Resolution #2010-11 Declaring Property Surplus and Conveying Property to Chatham Transit Network**, attached hereto and by reference made a part hereof.

The motion carried five (5) to zero (0).

**END OF CONSENT AGENDA**

**PUBLIC INPUT SESSION**

**Jeffrey Starkweather**, 590 Old Goldston Road, Pittsboro, NC, presented his comments to the Board and provided them in their entirety for the record as follows:

"I want to talk about the Chatham/Cary land use process. Growing up in a Baptist Deacon's family, I struggled as a child how to apply the Golden Rule until I read in high school one of my favorite books and a book that changed my life – *To Kill a Mockingbird* by Harper Lee. The novel is told from the point of view of a 13 year old girl, Scout, about her attorney father, Atticus Finch, who fights for social and racial tolerance in a small Alabama town in the 1950s. Scout has just got into a fight at school after she became enraged at hearing a prejudiced attack on her father. Atticus talks to Scout about the need to "steps in the shoes" of others.

"First of all" Atticus said, "if you can learn a simple trick, Scout, you'll get along a lot better with all kinds of folks. You never understand person until you consider things from his

point of view.” “Sir”? “...until you **climb into his skin and walk around in it.**” One of the toughest things to do in politics, public advocacy, or policy making is to climb into the skin of your opponents and walk around in it to understand their point of view.

I struggle to do that myself and I hope I will do better in the future. But I want to ask you to take a minute and climb into the skin of the folks who live in the Chatham/Cary border area.

I attended last week’s Chatham/Cary land use meeting at the Jordan Lake Visitor’s Center. I was embarrassed that the Chatham representative of this area of the County, Commissioner Sally Kost, was not allowed to speak.

In my 40 years involvement in local governments, I have never seen anything like this, where an elected official of the government involved in a meeting was not allowed to speak. I was disappointed that none of our three Chatham Commissioners participating in this meeting spoke up on behalf of a fellow commissioner’s right to provide input into the proceedings. Unless there is a major difference in the board’s majority approach as to how to represent Chatham’s interests from Commissioner Kost’s, which I have not heard, and without denigrating the three members of this committee who appeared to be doing their best to represent Chatham’s interests, I do not understand why Commissioner Kost was not made one of the three members of this committee.

- she represents the district
- she is a former chair of the planning board
- she lives in the affected area, and
- she represented Chatham in these negotiations with Cary for the last two years, including the last year as chair of this board.

She clearly has knowledge and experience that none of the existing members can provide. An example of why her participation is needed was the discussion of the set-backs for the American Tobacco Trail. The planning department provided solid environmental reasons for the proposed set-backs, but they failed to provide a different important rationale. As Mr. Kost attempted to say, but was cut off and not allowed to, the expanded trail set-back requirement provide a visual buffer or view shade that helps use this trail to promote tourism, an important element of our economic development strategy.

As an attorney who has been involved in hundreds of negotiations as both a mediator and negotiator, I saw the need for bringing a party’s best team to the bargaining table. I don’t like bringing this aspect because I believe the governance includes a great deal more than looking at election results. But one of your key supporters keeps referring to the election resulting, saying that “elections results matter,” and, thus, despite your narrow victory margins, you have a mandate to carry your campaign platforms. If elections matter, then you should recall that Ms. Kost won 63% of the vote in this North Eastern Chatham district she represents. In this past election, you only received 43% of the vote from the voters in this area that is most impacted by the Chatham/Cary land use negotiations.

I want to ask you to take a few seconds to climb into the skins of your own constituents and neighbors from the districts you represent in the west. What if a commissioners’ committee was formed to negotiate with the school board over this k-8 vs. k-8/middle school controversy concerning the southwest and Silk Hope schools and Mr. Petty and Ms. Stewart were left of the committee. Instead, two commissioners from the eastern and northern districts of the County were put on this committee in your place. I do not think either you or your constituents would be pleased. Now, how would feel if you came to the committee meeting and you were not allowed to speak.

I realize it may be too late the change the composition of the Chatham/Cary Land Use Committee, but Commissioner Kost should at least be allowed to speak at these meetings. It would better, however, if she were made a non-voting member of this committee and allowed to participate fully in these discussions concerning the fate of her community.”

**Timothy Keim**, 93 Cynthia Lane, Pittsboro, NC, stated that the healthiest and most prosperous communities are the cleanest communities. Perhaps the most pressing issue that faces us nationally and locally is growth. That encompasses not only how much we will grow, but how the growth will take place and who will benefit from the growth. The question that we

must ask before we contemplate growth is, do we have the resources to support the growth we are planning. Before a family brings a newborn into its embrace or a business venture expands the population of any given area, the question must be answered so that the family or community can be assured of reliable prosperity rather than the booms and busts with which we are so well-acquainted. In the case of Chatham County and the Greater Piedmont Region, we have to ask the practical question, do we have the water resources to support the addition of hundreds of thousands of people in our area in the coming years. A hard-headed accounting of the quantity and quality of our water resources will lead us to answer that, no we do not, and the building boom would not serve our long-term future well-being only a short-term boost that would lead us to the irresponsible exploitation of the water that not only quenches our thirst, but accepts our waste simultaneously. He stated that once upon a time, and just beyond living memory, the rivers of Chatham County ran clear rather than the tea-colored muck we see now. The evidence is unmistakable, the Deep, Rocky, and Haw Rivers, which feed into the Cape Fear are among the most polluted rivers in North Carolina. Species that could hardly be counted because of their millions, like mussels, are almost gone. Why should we care about mussels? They are nature's little wastewater treatment plants. They do the job of cleaning our waste for free. Our rivers are already so polluted that this marvelous little work horse of God's creation, now aborts its young because of this toxicity. What makes us think that if the water is too toxic for nature, it is safe for our children to bathe in and to drink? Our inefficient and expensive mechanical wastewater treatments allow many toxins to pass through untreated. The water supply, just for the existing population, is already being challenged by record heat and drought. Rather than to continue to burden these waters that sustain us, we could build a more prosperous Chatham County by restoring our irreplaceable and finite water sources. The healthiest and most prosperous communities are the cleanest communities.

**Larry Ballas**, 139 Indian Creek, Lane, Apex, NC, stated that he is pleased that the Chatham-Cary meetings have started again, as it has been a while and he thinks the discussions need to be continued from many prospective. One, he stated, it is not a requirement to do this, but it is nice to be able to work with Cary on it as Cary can annex Chatham under the law as it is now regardless of what the County does. They are nice enough to at least listen to what we have to say and he is positive about that. There are some things, however, which concern him. 1) Density: We do not want to go overboard or under-board on density. We want to make sure that the density agreed upon is right. The reason he states this is because of the possibility of satellite annexation. If you allow an area that is separate from the present Cary border to be more dense than those in between those areas, then you will end up with a lot of satellite annexations in eastern Chatham County and no one wants that. Presently in the State Legislature, there are laws coming up that are going to change the annexation laws to do away with forced annexations which, in a voluntary sense, then will allow us to do satellite annexations which he does not think they want in the eastern part of Chatham County. He thinks that we need to be most conservative on the densities and make them as least dense as possible. The reason, he says this, is his experience with Cary in helping with their Northwest Area Plan and Southwest Area Plan. Both of those plans were very dense and not very well run which Cary admitted. The Southwest Area Plan was involving a lot of Cary people and Chatham County people. It turned out to be a very good plan which is not being followed. The density of that plan was fairly low and now it is becoming fairly high. Remember that when developers come in, even when someone wants to develop their land, and he appreciates someone wanting to develop their land anyway they want, you have to be careful that requests come in that are going to change the densities of those areas. If you start off low, you can move up to something that you might want to consider as being correct later on in the process. He offered to provide the Board more information on the subject if they so desire.

**Peter Theye**, 1065 Boothe Hill Road, Chapel Hill, NC, presented his comments to the Board and provided them in their entirety for the record as follows:

“Good Evening,

Late last year, during the general election, I started a thread on the Chatham Bulletin Board titled, ‘You Are Not From Around Here’. The point I had wanted to make was that this County had changed, and ‘being from’ this County had little to do with an election. It used to, but not now. Mr. Bock’s supporters thought I was saying that because he was not from Chatham, he should not run...I am not from Chatham. My wife and I have lived here since we were married 27 years ago. Both my children were raised here. My son graduated from

Northwood and my daughter will graduate from Woods later this year. I love this County. It is my home. I am tied to the land and the people. I will never leave it.

This Board of Commissioners is working at removing the protections our past Board of Commissioners enacted. I believe the word I keep hearing is streamlining. Making it “easier” to develop and build. The people and the land have already incurred huge expenses because of poor leadership. Mr. Bock, Ms. Stewart, Mr. Petty, Sally, and Mike. I hope each of you think about the long term implications of your actions. Learn from the past and think about the future.”

**Revision to Existing Conditional Use Permit by Colvard Farms Homeowner’s Association:** Approval of a request for a revision to an existing conditional use permit by Colvard Farms Homeowner’s Association, located at 9310 NC Hwy #751, for multiple revisions

Jason Sullivan, Chatham County Planning Director, explained that a public hearing was held on January 18, 2011 on Colvard Farms’ request to amend the conditional use permit. The item was located on the Consent Agenda for approval, and included four conditions listed for approval by the Board of Commissioners. In reviewing the notes this afternoon, they realized that there was an additional condition that they needed to add which was part of the original request that was part of the packet submitted for the public hearing and part of the discussion by the Planning Board and their recommendation to modify the original layout for the creation of three non-residential lots. The one additional condition modifies the sketch design to allow the creation of three non-residential lots for the on-site utilities infrastructure and to reduce the minimum lot size as indicated on the plat title “Utility Easement & Subdivision Map for: Colvard Farms Water & Sewer System” dated December 01, 2010. He stated that he spoke with Jeff Hunter this afternoon who is fine with the additional condition as it reflects what the request was by the homeowners association.

As per the Planning Department and Planning Board recommendation, Commissioner Petty moved, seconded by Commissioner Cross, to grant approval of **Resolution #2011-12 Approving an Application for a Revision to an Existing Conditional Use Permit by Colvard Farms Homeowner’s Association** amending the existing conditional use permit with the changes to the conditions as listed below:

1. A 50-foot undisturbed buffer area has been established along the outside property line adjacent to the public lands managed by the US Army Corps of Engineers and is shown on recorded plats.
2. A 50-foot rear setback for dwellings or accessory dwellings, in addition to the 50-foot undisturbed buffer, is established and is shown on recorded plats.
3. Within the required minimum 50-foot swelling and/or accessory dwelling setback area, there is a restriction prohibiting the cutting of trees 18 inches or greater in diameter. This shall be documented in the Declaration of Covenants, Conditions, and Restrictions of Colvard Farms Subdivision.
4. Modify the sketch design to allow the creation of 3 non-residential lots for the on-site utilities infrastructure and to reduce the minimum lot size as indicated on the plat titled “Utility Easement & Subdivision Map for: Colvard Farms Water & Sewer System” dated December 01, 2010.
5. Modify the sketch design to allow the creation of three non-residential lots for the on-site utilities infrastructure and to reduce the minimum lot size as indicated on the plat titled “Utility Easement & Subdivision Map for: Colvard Farms Water & Sewer System” dated December 01, 2010.

Commissioner Kost asked for clarification of the motion.

Chairman Bock called the question. The motion carried five (5) to zero (0). The resolution is attached hereto and by reference made a part hereof.

## **COMMISSIONER PRIORITIES**

### **Resolution Honoring the Service of Emily Foushee:** Presentation and approval of **Resolution Honoring the Service of Emily Foushee**

This item was deferred until the March 7, 2011 Board of Commissioners' meeting.

**Leonard D. Scurlock Community Service Award:** Presentation and approval of Leonard D. Scurlock Community Service Award proposal for the Chatham County Parks and Recreation Department

Tracy Burnett, Chatham County Recreation Director, explained the specifics of the award as follows:

In the Recreation Department, more than 1,500-2,000 hours are volunteered each year and more than 2,600 volunteer hours were performed last year. The Recreation Staff felt it was necessary to honor and award the volunteers for their help and time. The Recreation Department could not operate successfully without the help of the volunteers. Leonard D. Scurlock was a long-time volunteer for the Parks and Recreation Department for at least 18 years and became a seasonal gym and field supervisor. While a seasonal staff member, he continued to volunteer as a T-ball and basketball coach. He was reliable, dependable, and loved by all. Mr. Scurlock died in the summer of 2010.

The Chatham County Parks & Recreation Community Service Award is to honor individuals who have displayed an extraordinary commitment through volunteerism to Chatham County residents participating in recreational activities either offered by the department directly or in activities offered in cooperation with the department. It is recommended that the award be named "The Leonard D. Scurlock Community Service Award". One individual will be recognized annually, unless two (2) candidates equally deserve recognition. No more than two (2) individuals will be recognized annually. The inaugural award will be presented to members of Mr. Scurlock's family in recognition of his dedication to the department and as his service inspired the idea to create the award. The honoree will receive a plaque inscribed with his/her name. A perpetual plaque listing the recipients' names will be placed in the Parks & Recreation Department's administrative office.

The Chairman read the Leonard D. Scurlock Community Service Award and presented it to the family in attendance.

Commissioner Cross moved, seconded by Commissioner Kost, to approve the Leonard D. Scurlock Community Service Award, attached hereto and by reference made a part hereof. The motion carried five (5) to zero (0).

**Discussion and Consideration of a Resolution to Continue Atlantic Power Solutions Maintenance Agreement with Chatham County:** Prior to being elected to the Board of Commissioners, Walter Petty's Company, Atlantic Power Solutions, contracted with Chatham County to perform periodic maintenance of generators owned by Chatham County. Upon election to office the contract became void until, by resolution, the Board of Commissioners approves continuance of the contract. The current contract expires June 30, 2011.

Commissioner Petty stated that the contract was never taken into consideration during the time of the campaign or being elected. After being elected, he spoke with the County Attorney to make sure that he was still within compliance and he thinks that he believes that he is in compliance. He stated that due to a school attended at the Institute of Government, there was an area of question that might have been a little grey. To make sure that they clarify it, he asked for the Board's support of a resolution for clarification to continue doing the work until it is rebid for the County and that he will exclude himself from voting. He asked the County Attorney for comments.

Jep Rose, County Attorney, stated that Commissioner Petty came to see him shortly after the election to discuss this matter. He stated that he looked at the issue, and in his view, it was a contract entered into by someone when he was not a public official and before he was elected and continue to run its course. As he stated, the School of Government stated that it was a grey area. He stated that it was fine to go ahead and approve the resolution; that once the contract

expires, the Board can return and vote on it again; that there is an exception for small counties that permits counties to contract with their public officials; that this is what are doing; and that it would need to be approved by resolution by the Board in which Commissioner Petty does not vote. There are also provisions for the contract to be posted so that everyone can see it and it has to be included in the financial statements of the County. It is also limited in dollar amount to \$40,000 for services and \$30,000 for equipment and supplies.

Commissioner Petty stated that this contract is nowhere near that amount.

Commissioner Kost stated that the contract was for servicing the generators, changing the oil, etc. but asked what if he finds something wrong with a generator stating that it would be work done outside of the contract. She asked how that would work as the County would be doing business with this company but outside the terms of the contract.

The County Attorney asked Commissioner Petty if there would be an additional charge. Commissioner Petty stated that with the way the contract is currently structured, they are quoting to do the preventative maintenance work on all the generators in the County. If there is a failure or need for repair, it is turned in on a time and materials basis. The contract is just for the service. The repairs are billed separately if there is a repair issue.

The County Attorney asked if it was in the contract. Commissioner Petty stated he was unsure if it was or not. The County Attorney stated that in that case, it would be an enforceable contract so long as it's under \$40,000.

Commissioner Petty stated that the contract is for service of the equipment which is detailed. If there is a repair necessary, it is reported to management and they ask them to either repair it or bid it out. The details of the service are pretty clear on what the service consists of and the dollar amount.

The County Attorney stated that that may be a new contract if some work has to be done.

Commissioner Kost stated that she was not sure that, if they found something wrong and repaired it, that it may be a conflict. The County Attorney explained that it would be another contract which would then need to be approved. He stated that some maintenance contracts you do make repairs and others you look at it and if there has to be a repair, then you make it. It sounded like that would need to be another contract which would come back to the Board.

Commissioner Kost stated that she has no problem supporting the contract.

The County Attorney stated that it something that the County could contract with him for once they approve it. It would come back to the Board and be handled just like the one before the Board today.

Commissioner Petty stated that in the past it has never been an issue since they were doing the service if there was a repair needed, they were asked to go ahead and make the repair. As the situation is today, they would continue to do the remaining portion of the service and if there was a repair needed, it could be put out for bid or however the Board wanted to handle it.

The County Attorney stated that it would not have to be bid, because the chance was that it would be so small and it would be a service anyway. However, it would be a separate contract and would need to come back to the Board at that time and this same procedure followed. He stated that the contract could be renewed with the stipulation that repairs be done up to \$10,000 or whatever amount the Board wanted it to be.

Commissioner Kost asked that the resolution include an insertion stating the contract expiration date of July 19, 2011.

Commissioner Cross moved, seconded by Commissioner Kost to adopt **Resolution #2011-13 of the Board of County Commissioners of Chatham County Approving a Contract Entered into Between Atlantic Power Solutions, Inc. and Chatham County Emergency Operations on or About the 20<sup>th</sup> Day of July, 2010**, attached hereto and by reference made a part hereof. The motion carried four (4) to zero (0) with Commissioner Petty abstaining.



## COMMISSIONERS' PRIORITIES

**Western Wake Partners:** Consideration of a request by Western Wake Partners to acquire easements in Chatham County for an effluent pipeline

Chairman Bock stated that this issue was discussed at some length during the afternoon Work Session and that the intention at the night's meeting will be to take a vote on it. He restated that Apex and Cary agreed to support a local bill to be introduced into the Legislature on February 22<sup>nd</sup> that will prevent Cary or Apex from involuntarily annexing into Chatham County. There is a local agreement under State Statute 160A that prevents the same thing. The reason it is in there is that it may take 30-45 days for the local bill to work its way through the legislation. If we have local bills under Statute 160A, it would bind both governing bodies for twenty years of no annexing without everyone's approval. It is a kind of a "belt and suspenders" type of a situation. The idea is to prevent involuntary annexation ever into Chatham County. The next point was a payment in cash to Chatham County in the amount of \$500,000 to be used to mitigate any negative impacts on the County by running a line. There are no legal restrictions on the money but the intent would be to use the \$500,000 to renovate the youth center that is in Moncure, since the pipeline does go through Moncure, they wanted to address that part of the community. The next item is to have a tap placed somewhere in the southern part of the pipeline for the possible future use of Chatham County to tap into. To summarize, he stated, a local bill will prevent involuntary annexation, double up on that with the local agreements that bind all the governments to a twenty year period of the same thing, a payment of \$500,000, and a tap.

Commissioner Stewart stated that they learned earlier that there were issues with the fact that we thought that most people were concerned about any kind of involuntary annexation into Chatham County by either Apex or Cary. Over the last ten years or so, there seemed to be some indication that maybe that was something that might be coming. We learned that, in reality, all the emails they have been getting that says that if you put the pipeline in, then Cary and Apex will annex into Chatham County was not that they were concerned that they would annex into Chatham involuntarily but that they would come in voluntarily. That is one of the reasons that they are doing this, meeting with Cary now and working on a joint plan is to somewhat restrict and be able to actually handle the growth in any of those areas where they could possibly come in voluntarily by the request of the landowner in Chatham County not by someone in Cary. There have been those that said that's the problem with people coming in that way. We can do something to keep them out altogether. There was one way that we would never have to even be here talking about this today and that's if we had provided for our own citizen's infrastructure that they need in that area. There would be no need to have to go to Cary or Apex or anyone else in that area to ask for water or sewer which is what they are doing. That's why anyone is opting to be voluntarily annexed into Cary. She thinks that we should keep that in mind going forward. Lesson learned. Sometimes she thinks that maybe we think we want to keep the growth down. We want to keep it to a minimum because we like our rural county. And that's all fine and good. But doing it by not providing infrastructure or providing the services and thinking that that's going to limit it doesn't work. All it does is make you more or less vulnerable to the surrounding area to provide for you which you haven't provided for yourself. As a side bar, just saying that if we are really serious about that, that's how you stop that problem altogether. Then you basically don't have to worry about anyone going outside of the County or anyone else to try to get those services. She heard a gentleman talk about water and sewer earlier, about not having the appropriate water that we need for this type of thing. She stated that it is something that she feels long-term must be addressed because it is an issue and it makes us vulnerable no matter where we are...whether here or on the other side of the County with Sanford one day. One of the things we do know, we talked about it in depth earlier, is that they're coming one way or the other. We know that. We know that the pipeline is going to go in one way or the other. This is not easy as we are the little guy. This is important to a lot of people. Now we have to decide if we want to have it come in and get something out of it or have it come in and get nothing out of it. The big problem for her, she stated, is that she wants to protect the individual landowners themselves that are there. That is their property. They own it. They paid for it. They pay taxes on it. She stated that she thinks that they should have some "say-so" and some right as to whether or not it comes through their property and what they get out of it and to be able to negotiate directly with Western Wake Partners to get the best the best deal they can get. If we say "no", then they don't get that because everything is done by force and we have lost our negotiating power. This is not an easy thing to do for anybody because she doesn't think that any of them really like all of the circumstances around it. But she thinks that they have to remember that if they get that, then we can work on the other to fix that problem too. We may

have to, what they say, “eat an elephant...one bite at a time”. We take care of this and then we try to take care of the other issue. Otherwise, we lose it all.

Chairman Bock stated that one of the things that they thought about is that they could say “yes with conditions” or they could say “no”. He stated that he thinks that there are some folks that believe that if they said “no”, this issue goes away. It does not go away in his mind. He stated that he firmly believes that if they say “no”, the Partners would be able to get the pipeline without them. To put it in context, they are building a wastewater treatment plant in New Hill. They have been working on the plant for ten years. They have already spent one hundred million dollars and don’t have the plant yet. They now have the approval from the residents of New Hill which is a relatively recent result to build the plant. It comes down to all that they have to do is run the pipeline from the plant down to the Cape Fear River. They have been told where that discharge line will be. They have also been told that the route that is being proposed is the best route. He has been in the room with the Division of Water Quality, the Division of Water Resources, the Department of Environmental and Natural Resources, and others and this is the route that they have endorsed. We also have the fact that the Secretary of State and Secretary of Commerce came to the public input session and said that they support this. It is not a matter of saying “no” and they go away. It is a matter that if they say “yes” and keep our property owners protected and compensate the community, then it is the best they can do. We want our folks to be able to negotiate from a position of strength rather than have a hostile environment. He stated that he knows that some people will disagree with him on that, but that is where he is coming from. This idea of the local bill being introduced to stop involuntary annexation, up until about three hours ago, was a big deal to people in the community. They told him that over and over, both at the public input, with the hundreds of emails that he received, the telephone calls that he has gotten, and looking back through the minutes of old Board of Commissioners’ meetings. We can now get that. He has folks very concerned in the eastern part of the County who are worried that the way the law is now written, Cary can annex them and they would be a part of Cary and pay the double taxes without requesting it. This will prevent that from ever happening. He believes that they are doing the right thing if they say “yes”, get the half million dollars, they get from a better negotiating standpoint for landowners, and we get the local bill and the local agreement. He stated that he feels, at this point, that is the best deal they can get and he thinks it is the best thing for Chatham County in the long-run.

Commissioner Kost stated that as they were negotiating, it would have been nice if they had requested voluntary and involuntary with the approval of the Board of Commissioners. If, she stated, they had read the minutes of the Board of Commissioners’ past, they would see that repeatedly it was said by the community and by the Board of Commissioners, it wasn’t just the developer’s annexations, it also was the developer’s annexations not just those involuntary. As they discussed earlier today, involuntary annexation laws over Carolina have certain density requirements. She stated that they had talked about this in various community meetings. The threat to the citizens is Cary is Cary whether it’s involuntary or voluntary. People forget how it became that. They just know that they have got this high density residential development plopped in the middle of their community. She stated that she thinks a stronger negotiation could have been done. She applauds the efforts in getting money for the Spratt Center, but she thinks they could have run a lot harder deal than they did.

Commissioner Petty stated that a decision with one hundred percent support is not difficult. He has been back and forth on this issue, depending on the information that he has been able to receive. He has gone from thinking it’s a great idea to it’s not such a good idea to maybe we can make it work. He stated that his main concern is that he wants to do the right thing. He has tried to look at all the information that has been provided to them on a scale system and weigh it out and say what makes the most sense and try to take the emotion out of the decision-making process because that can sometimes taint thoughts a little bit or side-track one. Some of the issues that have come up that he made notes about are the routes that were looked at for the pipeline. It was deemed that they were not acceptable and it wasn’t just because of the logistics issue so they are back to square one as to where it needs to go. With regard to not having the infrastructure in place should someone want or need it, those opportunities were missed a few years ago and now they are behind playing catch-up. This is a bigger issue than just where it is located although the property rights are the major concern. The people that are impacted greatest by it are the landowners in that area. He has several of them to go from not interested to the point that it is something they have to do so they might as well do it while they are in a position to negotiate. Ultimately, there is fall-out in other areas, but the main concern is the landowners and making sure that they are properly compensated and treated fairly for their

property. In order to allow that to happen, they need to go along with this. Should they choose not to, then it will get pushed through anyway. This pipeline is going to happen. We cannot stop it, delay it, but not stop it. It is kind of a regional thing to which Chairman Bock referred, with the Division of Water Quality, etc., there are a lot of people behind it at higher levels. They will get this done. If we choose to work with them in a partnership type way, he thinks it leaves them in a better position to negotiate other things and services down the road should we need and desire that. The current situation is that a lot of people wanted to tie this to them developing in the other area. In a way, it is two separate issues but in another way it's not. We have had people to tell us over and over again that it's our best opportunity to negotiate what we want. He stated that he thinks they have done that. He doesn't see a lot left for them to gain by holding out or changing direction other than creating an environment where they will not want to work with us on other issues. It is obvious that we are dealing with limited resources in our world. There is only so much water and so much land. The variable is the people and it constantly changes. People are going to live somewhere. Current landowners say that they will not sell their property and they don't want to see it developed. He stated that he can appreciate that as he feels the same way about his property. But there are generations to come that may not hold that same value. If we tie the hands of future people too tightly, then they will not be allowed to make decisions that they feel appropriate for them. He thinks that is the reason that no one wants to talk about no annexation at all because there will come a point in time where that will probably be necessary even though it is not an issue for today. What we can do is protect ourselves some and we can protect that area with the densities we put in place through a joint Land Use Plan that both parties have to agree upon both to implement and to change. Whatever is put into place today, no one will be able to just be able to step in and say tomorrow or the next week or next month, that I don't like what you've done and I'm going to change it. It takes the agreement of both parties involved. He stated that he thinks that is the key issue that they need to make sure that they are taking into consideration here. It's evident that many, many other industries and divisions have worked together on a regional basis. The Department of Transportation was present in an earlier meeting discussing regional planning for highways. We see it in water supply regional planning, economic development regional planning, water quality, waste management. This is something that we are going to have to deal with. It is just a matter of time that we have to put ourselves in a position that we can negotiate and plan regionally, not for tomorrow, not for next week, not for people who want to hold on to the land, but for future generations that might decide they want to do something different. He stated that he thinks that we have done about that he can see that they can possibly do. We have negotiated out of it all that he can see that they can possibly do. It has been a struggle. If there had been one hundred percent agreement, it wouldn't have been difficult at all. We have to look at it on an over-all view which includes regional areas, regional waterways, and regional river basins. He stated that he thinks this leaves us in a better position to negotiate in the future and in a less hostile environment than we will if we say no because it's going to happen. It is just a matter of time. If we choose to say no, it will be simply forced upon us with no ability to negotiate anything.

Commissioner Cross stated that Commissioner Petty mentioned that he took the emotional part out of his decision, stating that he might have to put it back in in his case. He stated that he is a six-generation Cross Family member on the farm where he lives. They are located about center way from US Highway #1 to the Cape Fear River. He is related to four of the property owners that will be affected and a neighbor to the rest of them. In his entire community, including his church, he has only one person who thinks the waterline needs to come through the community. He understands regional planning and regional partnerships and he respects all of the work that has been done, but that he doesn't plan to move. He stated that this might give a clue as to how he intends to vote.

Commissioner Stewart added that both Commissioner Petty and Commissioner Kost touched on talking about negotiating the voluntary. If we decide to choose to say no, then that negotiation breaks down and the involuntary is off the table. She asked how easy it would be for them to continue to negotiate voluntary with Cary, stating not much. She stated that she also fears that will completely break down as well. They have no reason to work with us, if we have shown that we are not willing to work with them. This entire joint land use thing, when we go back and try to talk about the density, developing and moving in to Chatham, she thinks you put a lot of strain on that negotiation as well which is also a much bigger concern from what she understands. Again, this was not easy at all because there were so many ways to look at it. It is taking the path of least-resistance of the least harm that could potentially come. You have got to think of things that could happen. She stated that she doesn't want to see it happen to anyone else. She stated that it was a risk, if taken, then if something really bad happens to other people

as a result of it, then it is on you. She stated that they were looking for some good out of it as much as they can find. And that it is definitely not an easy decision.

Commissioner Kost stated that she had just reread the comments from the public hearing; that she has heard former Commissioner Barnes talk about when he lost his land to Jordan Lake and the use of eminent domain against his wishes; that no one likes eminent domain, but it is especially thornful when it's eminent domain for a project that really is going to be of no benefit to your community. She stated that when they did discuss this issue several months ago, they also talked about trying to help these property owners in their negotiations, whether it was with land appraisals, etc. and that she didn't hear any of that in any of the concessions that were discussed. These property owners could have some significant expenses associated with fighting this, because there is going to be a fight. She stated that she was taken aback that this was not included in any of the concessions as well.

Commissioner Petty stated that one thing he has to think about is the good faith that has been shown, so far, in what they have offered leads him to believe that they will fairly negotiate with the landowners and the landowners are pretty well educated by now on the negotiation skills and what they need to be looking at and what needs to be taken into consideration. With their level of awareness and the good faith shown on other things that the Western Wake Partners have offered here, he doesn't anticipate that they will have to use eminent domain. We think, he stated, that they will reach a resolution that will satisfy all parties involved because he doesn't think that they will want to go that route because of the increased amount of time it will take to get it through and the increased expenses with that. They would be better off to settle it with the landowners in a civil manner.

Chairman Bock stated that it is also important to point out, is that we are not talking about a major highway going through; they are talking about an easement for a pipe that will be underground. People will not lose the use of their land. Our discussions with the Western Wake Partners do not end tonight once they start negotiating. He stated that if he thought that "no" meant "no", he would have a different answer. He thinks that reality is that they have to vote based on the world we live in not the world we would like to live in and that he thinks they are doing the best they can and getting the results for their land.

Chairman Bock stated that he would entertain a motion to grant the Western Wake Partners' request to run the effluent pipeline through Chatham County with the following concessions:

- \$500,000 payment
- Local Bill introduced into the Legislature to prevent annexation
- Local agreements to prevent the same with Apex and Cary as well as continue to work on the location of a tap in the southern part of the pipeline for possible future use in Chatham County

The County Attorney asked that it be made subject to incorporating that in an agreement.

Chairman Bock reiterated that the request be approved contingent on those items being contained in an agreement executed by the Western Wake Partnership and Chatham County.

Commissioner Petty moved to grant the Western Wake Partners' request to run the effluent pipeline through Chatham County subject to incorporating the concessions into the agreement.

Commissioner Stewart asked if the motion was to grant the Western Wake Partners permission to negotiate with the landowners.

The County Attorney stated that that was correct as outlined in the bullet points. It would also give them the right to use eminent domain if they could not negotiate an agreement.

Commissioner Stewart seconded the motion.

Chairman Bock called the question. The motion carried three (3) to two (2) with Commissioners Kost and Cross opposing.

The County Manager asked for clarification, based on the motion passed, if the agreement needs to be fleshed out and brought back to the Board.

Chairman Bock stated that if the agreement stated what was just passed, then he will sign it. Commissioner Kost asked that copies be provided to the Board.

**Clancy & Theys Contract:** Approval of Clancy & Theys Construction Manager At-Risk Contract for construction of the judicial center and approval of Project Ordinance

David Hughes, Public Works Director, explained that since 1996, when the County commissioned a facilities study, the County has wrestled with the issue of providing adequate space for the judicial system, including courts, Judges, Clerk of Court, District Attorney, Probation, and the Public Defender's Office. Almost none of the space needs identified in the facilities study have been addressed. The County rents space for probation and the public defender. Court officials have identified the lack of courtroom space as a severe problem. Recently 368 cases were on the docket for one session of criminal district court. The capacity of district court is 154. With attorneys, witnesses, and court officials, many people were not able to fit in the courtroom, and attorneys had to confer with clients in the hallways. Construction is expected to take approximately 18-24 months. The project is being financed through the USDA Rural Development Department.

Commissioner Kost moved, seconded by Commissioner Cross, to approve the Clancy & Theys Construction Manager at Risk contract with a GMP of \$17,779,376.00 for the Chatham County Justice Center and to adopt the **Project Ordinance Concerning the Judicial Facility Construction**, attached hereto and by reference made a part hereof. The motion carried five (5) to zero (0).

#### **WESTERN WAKE PARTNERS**

Chairman Bock explained that the request from Western Wake Partners had just been passed that included submission of a joint bill into the Legislature. He stated that Representative Hackney has agreed to co-sponsor the bill, but would like to have a resolution from the Board of Commissioners. Chairman Bock stated that he would like to have unanimous approval from the Board so that it could be introduced on the morning of February 22, 2011. He asked if the Board would be willing to do so.

Commissioner Kost stated that if voluntary and involuntary annexation was added, she would be happy to support it.

Chairman Bock asked if Commissioner Kost would support it the way it is. Commissioner Kost stated that she preferred it the other way; that she is uncomfortable supporting a blind resolution as she might not agree with some of the "Whereases".

Chairman Bock stated that at this point, the Board would be asking Representative Hackney to co-sponsor the bill. He stated that he would like permission to go to Representative Hackney and say that the Board is requesting that he co-sponsor that bill.

Jep Rose, County Attorney, suggested that the Board approve the wording, "I move that we request Representative Hackney to introduce the attached bill."

Chairman Bock stated that Representative Hackney just wants to know that the Chatham County Board of Commissioners wants him to do it. He stated that he thinks the Board already has three votes to do so, but is asking the Board for a unanimous vote.

Commissioner Cross stated that the vote is what it is; that the Board does need a unanimous vote to go to Representative Hackney; and that he would support it.

Commissioner Kost stated that she wished it had been taken a little further, but she would support it.

Commissioner Cross moved, seconded by Commissioner Petty, to ask Representative Hackney to co-sponsor a bill in the General Assembly entitled, "An Act to Require the Approval

of the Board of Commissioners of Chatham County Before the Towns of Apex or Cary Make an Involuntary Annexation into Chatham County.” The motion carried five (5) to zero (0).

### **MANAGER' S REPORTS**

The County Manager had no reports.

### **COMMISSIONERS' REPORTS**

#### **Moncure School Site:**

Commissioner Cross stated that he had met with a local realtor in the Moncure area to help him locate property for a future parks/school site. Any funds that go to the realtor will come from the seller. There is no contract between the County, the realtor, the seller, or he. They are scheduled to look at three properties on Thursday, weather cooperating.

#### **World Trade Center Memorabilia:**

Commissioner Stewart stated that she will be meeting with members of the Parks and Recreation Department and Fire Marshal to discuss the World Trade Center monument. Chatham County has been awarded a piece of steel from the World Trade Center through the Fire Marshal's efforts. At some point, they will be working to get different organizations involved throughout the County to come together and decide how best to display it on the tenth anniversary of September 11, 2001. A lot of funding was provided through Chatham County donations to that area. Further details will be forthcoming.

#### **Western Wake Partners Petitions:**

Chairman Bock asked those with petitions regarding the Western Wake Partners give them to the Clerk to the Board for insertion into the record.

#### **Chatham County Conservation Plan:**

Commissioner Kost stated that she was approached in November by Allison Weakley who has worked on the Chatham County Conservation Plan. She stated that they requested the plan be placed on the January agenda. She requested that the Chatham County Conservation Plan be placed on the next available agenda so that the Board can receive the plan.

#### **Chatham-Cary Joint Land Use Plan:**

Commissioner Kost stated that there was quite a bit of data that was not discussed at the Chatham-Cary Joint Land Use meeting the prior Monday as it had a lot of relevance. Not being allowed to speak, she was unable to bring it up. She also asked that Cary be asked to allow her as a non-voting member of the board so that she can represent the citizens in eastern Chatham County.

### **ADJOURNMENT**

Commissioner Cross moved, seconded by Commissioner Petty, to adjourn the meeting. The motion carried five (5) to zero (0), and the meeting was adjourned at 7:15 PM.

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Brian Bock, Chairman

ATTEST:

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