

MINUTES
CHATHAM COUNTY BOARD OF COMMISSIONERS
WORK SESSION
APRIL 04, 2011

The Board of Commissioners (“the Board”) of the County of Chatham, North Carolina, met in the Agricultural Building Auditorium, 45 South Street, Pittsboro, North Carolina, at 2:30 PM on April 04, 2011.

Present: Chairman Brian Bock; Commissioners Mike Cross, Sally Kost, and Pamela Stewart

Absent: Vice Chair Walter Petty

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

Work Session

1. **Public Input Session is held to give citizens an opportunity to speak on any item, which does not appear on the day’s Agenda. The session is no more than twenty minutes long and speakers are limited to no more than three minutes each. Speakers are required to sign up in advance. Individuals who wish to speak but cannot because of time constraints will be carried to the next meeting and given priority. We apologize for the tight time restrictions. They are necessary to ensure that we complete our business. If you have insufficient time to finish your presentation, we welcome your comments in writing.**
2. **Employee of the Month:** Presentation of the April Employee of the Month
3. **Streamlining:** Continuation of discussion of options for streamlining the zoning process
4. **Stormwater Ordinance Amendments:** Presentation of Stormwater Ordinance amendments to apply Jordan Lake Rules requirements within the Jordan Lake watershed area
5. **Transportation Advisory Board Update:** Presentation of the Transportation Advisory Board 2011-2013 Strategic Plan and request from staff for feedback from Commissioners

PUBLIC INPUT SESSION

Liz Cullington, 390 Rocky Hills Road, Pittsboro, NC, presented her comments to the Board and provided them in their entirety for the record as follows:

“Although it was not clearly stated, I have to assume normal practice and that underlined text represent changes to the advisory board or committee policy.

These changes are serious enough to warrant a public hearing.

Firstly, how many people would be happy with advisory board members who do not live in Chatham County but could merely own real estate or work or maintain a place of business in Chatham County? In fact with the reference to “real property”, maybe you could just park a vehicle in the County for the duration.

I realize there is a conflict of interest policy already, but such policies are rather narrow and apply to specific projects rather than generalized recommendations or policy changes that could affect one's profits as a whole.

Secondly, a change on page 4 adds that "members of the citizen advisory committee will: Assist any related Chatham County departments in achieving a greater understanding of the nature and causes of community issues, with an emphasis on improving relations between the department and the citizens.

This sounds harmless but I rather dread county advisory boards messing with county employees, intervening in permitting processes, playing favorites, trying to get code violations vacated and so on.

A third undesirable and confusing change concerns the Chairman of advisory boards. The new policy states they will be appointed for one year by either the Board of Commissioners or by the committee itself. Previously this was not stated in policy and was discussed at the last meeting regarding one such board that is not in fact an advisory board as the rest are (the Board of Equalization and Review).

Surely for these other boards the Chairman should be chosen and elected by the advisory board members themselves, not appointed by the Board, and what use is a policy that doesn't make clear which of these two picks the Chairman? Is this a way to disguise what is going to happen? Because what is going to happen is whichever gets to have a scheduled meeting first could get to pick, and I sense that is always going to be the Board of Commissioners.

A fourth undesirable change is that Minutes of advisory boards have to be submitted to BOC for their approval. This strikes me as outrageous and creepy. And I note that the current board is behind in approving some of its own minutes though I hope that is not because history is being rewritten.

A fifth change involves subcommittees. Members of subcommittees must include a majority of members who live in the county, BUT a subcommittee can be formed by the chair of advisory board/committee alone (not by a majority vote). Here we have the prospect of a cherry picked chairman cherry picking a subcommittee to do the real work of the committee. In addition that person would get to decide what issues or tasks go off into those subcommittees, not just who serves."

EMPLOYEE OF THE MONTH

Employee of the Month: Presentation of the April 2011 Employee of the Month

Carolyn Miller, Human Resources Director, stated that the Employee of the Month program was instituted in FY 2009 to honor Chatham County employees for exemplary service to citizens and their fellow employees. She explained that the April 2011 Employee of the Month is Jason Sullivan, Chatham County Planning Director. Jason has worked for Chatham County for over six years. An excerpt from her nomination form follows:

Reason for Nomination:

The reasons are too many to count. They range from coming into a new department where a sea of uncertainty loomed, changes were taking place every day, and he was and is always available as a sounding board to give good direction to his employees. Most important of note, she believed, was that Jason's nomination came from his employees.

In what way does this employee demonstrate Employee of the Month criteria?

"Jason Sullivan has set the bar for all the employees in the Planning Department and County government as a whole. In the last three years alone, he wore the hats of a department head, a division head, and now back to a department head, yet never lost sight of what was and is in the best interest of his employees. During trying times outside of his daily job duties, Jason stepped into the position of Planning Department when a thirty-year employee retired. There was no lapse in leadership, activity, or his willingness to do the best job he could for the

department when he wasn't able to be here. Jason is diligent and fair in all of his dealings with the various boards, the public, and his employees. To take on the responsibility of leadership following a thirty-year veteran was a major milestone that most people would have declined. He always has an open-door, an open ear, and has remained professional in each aspect of his responsibilities. He loves his family and with all that has changed in County government over the last few years, he always makes time to help out at the schools and be at functions that involve his children. In all of this, he still manages a smile and keeps a sense of humor that helps keep us, his employees, striving for a better tomorrow."

Mr. Sullivan expressed his appreciation for the honor. He thanked his staff, stating that they were a great group with which to work.

STREAMLINING

Ben Howell, Chatham County Planner, explained that at the Board of Commissioners Retreat on February 8, 2011, staff presented the process for opening a business in Chatham County. Included in this presentation was the process required if the proposed business were located in the zoned portion of the County, and the proposed business was not allowed under the current zoning.

Traditionally, the Board of Commissioners have not approved general use rezonings, instead requiring applicants to go through the two-step Conditional Use rezoning process, which involves rezoning the site and receiving a Conditional Use Permit. This process involves a joint public hearing of the Planning Board and Board of Commissioners, followed by a Planning Board meeting and a Board of Commissioners meeting – requiring a minimum of three meetings. This includes two separate processes – a legislative process for the rezoning and a quasi-judicial process for the Conditional Use Permit.

The Board directed staff at this meeting to propose options for shortening the amount of time it takes for an applicant to rezone their land and receive a Conditional Use Permit, and asked staff to supply information on amending the Zoning Ordinance to allow Conditional Zoning, which would be a one-step process. The Conditional Zoning process could take as few as two meetings, and would be a legislative process.

Staff has reviewed the existing process in the Zoning Ordinance for receiving a Conditional Use rezoning, and determined that to reduce the amount of time required to receive approval, the only clear option is to change the order of meetings. This option would move the public hearing until after the Planning Board meeting which means the Planning Board would not have the benefit of information received at the public hearing prior to making a recommendation on a proposal. If the Board wishes to pursue this option, staff would need to further investigate the process and any consequences prior to proposing text amendments to the Zoning Ordinance.

The other option that was presented was to amend the Zoning Ordinance to change from a Conditional Use process to a Conditional Zoning process. This option was discussed in 2005 and text amendments went to public hearing, but the Board at that time decided not to amend the Zoning Ordinance. The information and text amendments proposed in 2005 for Conditional Zoning are provided on the Planning Department website.

Mr. Howell asked that the Board provide direction to staff on whether to pursue amendments to the Zoning Ordinance to change the existing Conditional Use rezoning process or to pursue amendments to the Zoning ordinance to change to a Conditional Zoning process.

Mr. Howell presented a PowerPoint as follows:

Conditional Zoning

A New Approach to the Rezoning Process


Types of Zoning

- ▶ **General Use**
 - Legislative Decision Process – One Step
 - Uses listed as either “Permitted” or “Conditional”
 - “Permitted” uses are considered to be allowed by-right
 - “Conditional” uses require a Conditional Use Permit – Quasi-Judicial Process
- ▶ **Conditional Use**
 - Legislative & Quasi-Judicial Decision Process – Two Steps
 - Includes a Legislative Rezoning Decision and a Quasi-Judicial Conditional Use Permit – Usually simultaneous
- ▶ **Conditional**
 - Legislative Decision Process – One Step
 - Site-Specific Standards and Conditions included in Zoning District


General Use Zoning

- ▶ Currently used by the County.
- ▶ General Use Districts: R5, R2, R1, O&I, B-1, NB, CB, RB, IND-L, and IND-H
- ▶ Zoning Ordinance includes Table of Uses:
 - Certain uses are permitted by right
 - Other uses require Conditional Use Permit
- ▶ Permitted Uses only require Administrative Review/Approval
- ▶ Conditional Uses include approval of a site plan, specific uses for the property, or additional conditions – Decision by BOC


Conditional Use Zoning

- ▶ Currently used by the County.
 - ▶ Two steps:
 - Conditional Use District – Legislative Rezoning Process
 - Conditional Use Permit – Quasi-Judicial Process
 - ▶ Conditional Use Districts: CU-R5, CU-R2, CU-R1, CU-O&I, CU-B-1, CU-NB, CU-CB, CU-RB, CU-IND-L, CU-IND-H, and CU-CC.
 - ▶ No uses are permitted by right in the conditional use district, but specific uses are granted as part of the conditional use permit.
 - ▶ Conditional use permit approval includes the site plan, specific uses, and additional conditions above minimum Zoning Ordinance standards.
- 

Conditional Zoning

- ▶ Authorized by Legislature in 2005
 - ▶ Used by the following:
 - Burke, Lee, Mecklenburg Counties and some Municipalities
 - According to 2007 UNC Survey
 - 20% of 49 responding Counties with population over 25,000 use Conditional Zoning; 41% use Conditional Use Zoning
 - 8% of 63 responding Counties use both Conditional Use *and* Conditional Zoning
 - ▶ Can have conditional districts that parallel general use districts or entirely new districts (i.e. similar in nature to conditional use districts the county currently uses).
 - ▶ Conditional zoning district approval includes the zoning district change, site plan, specific uses, and additional conditions that are added.
- 

Conditional Zoning vs. Conditional Use Zoning

- ▶ Conditional Zoning utilizes a legislative rezoning process only – site specific conditions are embedded in the Zoning District
 - ▶ Conditional Use Zoning utilizes a legislative rezoning process and a quasi-judicial Conditional Use Permit process
 - ▶ Conditional Zoning typically will require a community meeting prior to submittal to County
 - ▶ Conditional Zoning avoids the confusion of two separate processes and standards of review that Conditional Use Zoning utilizes
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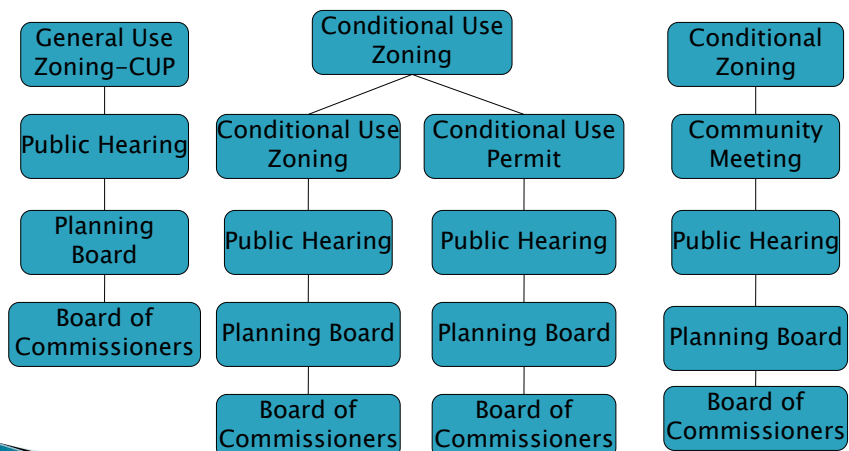
Conditional Zoning: Pros vs. Cons

- ▶ **Pros:**
 - One Legislative Public Hearing
 - Speakers are not under oath at Public Hearing
 - Additional Comments may be submitted and considered after the Public Hearing
 - Board members are not bound by the procedural rules of Quasi-Judicial process (i.e. ex-parte communication)
 - With Community Meeting requirement, applicant can address neighbor/community concerns before submittal
- ▶ **Cons:**
 - Lose protections of Quasi-Judicial process
 - May create many more zoning districts, each with separate site-specific standards and conditions

Conditional Zoning Process


- ▶ **Community Meeting**
 - A meeting conducted by the developer prior to the public hearing with no involvement by the County
 - Include notification requirements, summary of meeting submitted prior to Public Hearing
- ▶ **Public Hearing**
 - Submit Site Plan and application to Planning Dept.
 - Joint Legislative Public Hearing with Planning Board and Board of Commissioners
 - Planning Board Recommendation
 - Board of Commissioners Decision
- ▶ **Single process is simpler for the public, boards and staff**

Process Flowcharts – General Use vs. Conditional Use vs. Conditional



Direction for Staff

- ▶ **Replace Conditional Use Zoning with Conditional Zoning? Or Amend Conditional Use Zoning Process?**
 - If Amend existing process, staff will investigate changing order of meetings and recommends adding Community Meeting requirement
 - If change to Conditional Zoning, staff will begin to work on updating Ordinance Amendments prepared in 2005
- ▶ **Staff will also prepare Ordinance Amendments to address other issues with Zoning Ordinance and recent Court Cases**
- ▶ **Staff will provide status update to Board after adoption of County Budget**



Commissioner Kost stated that exploring conditional zoning had been a goal of the Board of Commissioners for the last year so it was in the prior Board's goals. She said when this was discussed earlier, Mr. Howell had talked about the fact that since only a part of the County was zoned and the fact that the Board had delayed the much needed Land Use Plan, how would that impact if they went to conditional zoning. Mr. Howell responded that there would not be much of an impact.

Commissioner Kost stated that if they had conditional zoning and a project were to move forward, and then five years later the applicant wanted to add a building or make some other change, how would that work. Mr. Howell replied that it would depend on the Ordinance language, but staff is planning to look into amendments allowing some modifications to site plans approved through the Conditional Zoning process.

Jason Sullivan, Chatham County Planning Director, replied that was addressed in the proposed text amendments in 2005 with specific standards that would require an amendment that would be approved by the Board.

Commissioner Kost stated she understood the benefit of doing that but it was troubling to her. She said in thinking long term as they moved forward and as the County grew, they would have conditions for all those parcels which made the job for the Code enforcement people extremely difficult. Commissioner Kost asked how they could achieve what the majority of the Board wanted to do which was to streamline, and were there other options because she could see some drawbacks. Mr. Sullivan responded that the Board could approve more general use zoning districts; however, staff thinks the Zoning Ordinance would need additional work and the land use plan would need to be updated prior to making that change.

Commissioner Kost stated then you could approve site plans and schematics for a project. Mr. Sullivan replied that staff could do that, but more specific standards would be needed in the Zoning Ordinance.

Commissioner Kost stated she had had some discussions with Jim Elza who had experience as a former planning director and it did seem to be doable. She stated she hoped that when this went to the Planning Board that that discussion would take place as to what other options they had. Mr. Sullivan stated it could be discussed with other text amendments, but we would focus on the items that the Board had already directed for staff.

Commissioner Kost stated that it would be that site plan that was approved whether it was by staff or by the Board. Mr. Sullivan replied that was an option. Commissioner Kost's stated that was correct, but then the developer would be bound to that. Mr. Sullivan stated that was correct as long as it met the minimum ordinance requirements. Commissioner Kost stated she believed it was an option that needed to be looked at because that could really streamline the process. Mr. Sullivan stated that one of the things they had talked about was that if the Board

was inclined to use more General Use zoning they may want to look at the Land Use Plan update and revisit that again. Commissioner Kost stated she believed when the Board had voted to delay it they had said they would revisit that. Mr. Sullivan stated what they were discussing today was simply switching the process of the Conditional Use permitting to something that may be more manageable procedurally. With a two-part process it was a much more complicated process than conditional zoning where it was just one legislative process to move it forward, so it would simplify the process for everyone involved.

Commissioner Cross asked had Mr. Sullivan worked with Conditional Use zoning in the past. Mr. Sullivan replied he had worked in a previous jurisdiction where they had amended the ordinance to incorporate it, but had not worked with a project through the process. But, it would be a matter of shrinking the two processes they now had into one process. The reality was that most people would notice no difference except there would be only one item on the agenda rather than two. The loss of the quasi-judicial process might be of concern to some, because that process had standards of evidence for the submittal of information and for cross-examination and some would want that to remain a part of the process.

Commissioner Kost stated that in the Conditional Use process the developer had to agree to the conditions, and asked was that true of Conditional zoning as well. Mr. Sullivan replied he believed so, but would have to check to be sure. Commissioner Kost stated it seemed that it was tied to the zoning and not to the use, and so that was why she had questioned it. Mr. Sullivan stated they would need to work closely with the County Attorney to clarify for sure whether or not the developers had to agree to conditions as they did with Conditional Use permitting process.

Jep Rose, County Attorney, stated that the developers would have to agree to any conditions imposed.

Commissioner Cross suggested moving forward with the staff and the Planning Board and see what they came up with, noting there were many things that likely could not be answered today.

Commissioner Stewart asked what Mr. Sullivan's basic recommendation was. Mr. Sullivan stated that Conditional zoning was procedurally much simpler than the two-step process they now used. They had all experienced the Conditional Use process so they understood the difficulty of not being able to talk about the site plan and who could speak. The other complication was when the public hearing was closed on a Conditional Use permit they were not suppose to accept new evidence, but at times there was new information that came forward both for and against a project that might be valuable in making a decision.

By consensus, the Board agreed to pursue amendments to the Zoning Ordinance to change the existing Conditional Use rezoning process to a Conditional Zoning process.

STORMWATER ORDINANCE AMENDMENTS

Fred Royal, Environmental Resources Director, explained the specifics of the request as follows:

The *Jordan Lake Nutrient Management Strategy* is a set of individual rules (i.e.: new development, existing development, trading, agriculture, etc.) implemented by the NC General Assembly to reduce impacts caused by excess nutrients, specifically nitrogen and phosphorus, into Jordan Lake to reduce algal growth and other nutrient-related water quality problems. The requirements of the strategy are similar to those already in place in the Neuse and Tar-Pamlico River Basins. The rules require major sources of nutrients to reduce the nutrient load that makes its way to Jordan Lake to meet specific model-established percent reduction goals needed to restore water quality standards and full uses of the lake. The Jordan rules go beyond previous rules in requiring all local governments in the watershed to implement new development permitting requirements, in requiring load reductions from existing developed lands, and in directly regulating state and federal entities for stormwater control from both new and existing development.

On December 1, 2008, Chatham County adopted a local Stormwater Ordinance and Program that applies throughout the County. It was amended on September 21, 2009. The purpose or intent of this ordinance is to protect the health, safety and welfare of the citizens,

specifically by requiring water quality treatment and water quantity control (flood and runoff damage prevention) for new development in all watersheds of Chatham County. The Director of the Environmental Resources Department (ERD) is the Stormwater Administrator for this program.

The Jordan Lake Nutrient Management Strategy and Rules require the County to comply with the minimum stormwater rules for new development and existing development within the Jordan Lake Watershed pursuant to Session Law 2009-216 and 2009-484 (modification to Rule .0265). Our current ordinance and program does not meet these minimum Jordan Lake Rules. Chatham County must submit a draft Stormwater Ordinance (and Program) to the Division of Water Quality (DWQ) in September 2011 for review and comment, and must adopt and implement by August 2012.

Mr. Royal also provided a PowerPoint presentation as follows:

**Stormwater Management Regulations:
Ordinance Amendments for Jordan Lake Nutrient
Management Rules**

Board of Commissioner's Work Session
April 4, 2011

Fred Royal, PE, CFM
Director, Environmental Resources Department



**Why Jordan Lake Total Maximum
Daily Load (TMDL) Rules?**

- Impaired **water quality** from the impact of development on reservoir eutrophication (*excessive nutrient loads in reservoir*)
- Rule focus was on **chlorophyll-a** levels in the reservoir (*tags phytoplankton concentrations*)
- Stormwater regulations target watershed pollutants - nitrogen and phosphorous (*phytoplankton requires on N&P*)

Eutrophication



- Decreases the value of rivers, lakes, and estuaries for recreation, fishing, hunting, and aesthetic enjoyment.
- Health problems can occur where eutrophic conditions interfere with drinking water treatment

Recreation-based Economic Impact of Jordan Lake State Recreation Area (2004)

- Non-local visitors spent an estimated **\$4,096,541**
- Impact on personal income - (a measure of the economic benefit that local residents derive from expenditures made by nonlocal park visitors): **\$1,732,477**
- Impact on employment: **68.1** full-time equivalent jobs
- *NC State Parks investment benefits Chatham*: local residents receive a benefit of **\$1.90** for every dollar the state invests.
- The economic impact created when visitors choose Jordan Lake for their recreation is significant for the local economy.

Chatham County Stormwater Ordinance

- Adopted Dec. 1, 2008
- Water quality (volume and Total Suspended Solids)
- Peak discharge (erosion, scour & flooding)
- Does not address nutrients directly
- Countywide (all watersheds)



Infiltration swale

USGS North Carolina Water Science Center

Triangle Area Water Supply Monitoring

- **Why the study?**
 - Concerns about water quality of the area's water supplies and the effects of development on reservoir eutrophication and contaminant concentrations
 - **Cooperating agencies: Chatham (\$15,525/per year), Orange, Wake, Apex, Cary, Durham, Hillsborough, Morrisville, Raleigh, OWASA, South Granville WSA, TJCOG, Cape Fear River Assembly, NC DWQ**
- USGS routinely samples 19 stream and reservoir sites
- Analyzed for trends to include nitrogen and phosphorus

Chatham Stormwater Ordinance

- Addresses stormwater management from new development/re-development across the county
- It can be amended to incorporate JL Model specific to JL watershed



Sediment in streams

Overview: Legal Basis

15A NCAC 02B.0262-.0273

Session Laws 2009-216 and -484 (rule modifications)

Effective August 11, 2009

- **Stormwater Rules:** *New Development (similar to existing local Stormwater Ordinance. Revisions required by September 2011.)*
- **Riparian Buffers:** *Perennial and Intermittent Streams minimally (Watershed Protection Ordinance has higher standard quality protections)*
- **Stage 1 and Stage 2** *(Joint with Town of Pittsboro via interlocal agreement)*
- **Stormwater Program/Ordinance** *(Next requirement)*
- **BMP Retrofits** *(Existing development: Stage 1 planning is required now (2 sites ID per year) with implementation in 2014 if deemed necessary by DWQ.)*

Key performance standards

*Please see ordinance
comparison table*

- Volume
- Peak Discharge
- Pollutant removal

Cisterns for reuse

JL Stormwater

Stage 1: *Interlocal Agreement between Chatham County and the Town of Pittsboro*

- Public Education – County administrators
- Illicit discharges – *Per jurisdiction*
- BMP retrofit (existing development) – *County administrators*
- Ensure BMP maintenance – *Per jurisdiction*

•**Stormwater Program and Ordinance:** *Draft to DWQ by Sept 2011*

•**Stage 2:** *If necessary, adaptive management for nutrient reductions. DWQ may issue orders to local government March 2014.*

•**Scientific Advisory Board:** Determine base load allocations for local government, determine nutrient management strategy, determine tools for local government use. ERD Director is on the board.

New JL Requirements

- Stormwater “Program” required
- Annual reporting and audits
- Nitrogen and Phosphorous calculations (3 sub-sheds)
- BMP Mapping and database

Bioretention area



Best Management Practices (BMP)

A BMP is a....

“technique, measure (non-structural) or structural control that is used for a given set of conditions (context) to manage quantity and improve the quality of stormwater runoff in the most cost effective manner.”



Wet Pond

Commissioner Kost asked would that apply to only permanent BMPs or did it include those built during construction as well. Mr. Royal responded it applied to the permanent BMPs which were called post-construction BMPs, although at times BMPs used during construction were converted to permanent BMPs.

Chatham County Stormwater Options

1. Mesh the parts of the JL Model that are new (standards for nutrient loading, program requirements, legal, reporting, auditing, etc.) into with the existing Chatham County Stormwater Ordinance. The amendments will be specifically for the JL Watershed only.
2. Modify the existing ordinance to a standard that is consistent across the county and meets the JL Model.
3. Mesh JL Model with the existing ordinance; review and recommend technical and streamlining modifications to the existing ordinance for all other watersheds.
4. New - Adopt the JL Model ordinance separately (as-is) in its entirety or similar language for use in exclusively the JL Watershed and; modify the existing ordinance for the balance of the county watersheds.

Re-cap of Purpose

The purpose of this ordinance is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of nitrogen and phosphorus in stormwater runoff and nonpoint and point source pollution associated with new *development and redevelopment in the watershed of B. Everett Jordan reservoir.*

It has been determined that proper management of construction-related and post-development stormwater runoff will minimize damage to public and private property and infrastructure; safeguard the public health, safety, and general welfare; and protect water and aquatic resources.

Thank you



Mr. Royal stated that staff believes that the Board of Commissioners generally has the following ordinance amendment options to consider:

1. Amend the current County-wide ordinance to include Jordan Lake Rule requirements for the Jordan Lake Watershed and continue applying current rules in all other watersheds:

- a) The Jordan Lake Rules apply in the Jordan Lake Watershed only and;
- b) Retain the current stormwater ordinance for the balance of the County watersheds.

2. Amend the current ordinance to include Jordan Lake Rules throughout the County. One general set of rules* would apply across the County. *(Not recommended due to the specific nature of the nutrient protection for JL Watershed and difficulty of compliance across the County.)*

**sub-watersheds (Haw River, Upper and Lower Arm of New Hope Creek) in Jordan Lake Watershed have different nutrient performance standards in percent nutrient reduction. All other watershed nutrient standards would have to be determined.*

3. Review and amend *where practical* the current ordinance for streamlining and technical modifications for all other watersheds and amend to include Jordan Lake Rule requirements to apply only to the Jordan Lake Watershed area of Chatham County.

(Recommended approach: Meets the streamlining goals of the Board of Commissioners while keeping intact the intent of the ordinance and by including the mandated Jordan Lake Rules.)

The ERD Director is taking the lead in text amendments by staff. County attorney/legal services and fees are required for ordinance text amendments. Staff will work to minimize the cost of these legal services. It requires advertising fees for the Public Hearing(s).

4. Authorize the Director of the ERD and other staff to write the draft text amendments to the Stormwater Ordinance, based on Option 3 above. This option would allow continued stormwater management protections from new development, protect the health, safety and welfare of the citizens, protect property and protect water quality in all watersheds of Chatham County. The draft ordinance (with amendments) would be provided to the Board of Commissioners for consideration in June/July and subsequently submitted to DWQ by September, 2011 for review.

Mr. Royal said his goal today was to go away with some direction from the Board, but that could be delayed as he believed they had some time to make a decision.

Commissioner Cross asked what his recommendation would be. Mr. Royal stated Option 3 was his recommendation, because the current ordinance appeared to be working although it needed to be improved in some areas. They used the State design manual for the most part, although the County's stormwater administrator, which he was, had the authority to use discretion and not go exactly by the State manual. He had used that discretion several times in the past in order to get projects in the ground, although it still met the intent of the ordinance. His recommendation was to maintain that but bring in the State model for the Jordan Lake Watershed.

Chairman Bock stated on Option 4 it said to adopt the model separately in its entirety or similar language to be used exclusively in the Jordan Lake Watershed, and modify the existing ordinance for the balance of the County watersheds. He asked could that be two separate topics. Mr. Royal responded it could. Chairman Bock stated that at present he assumed they were talking about the Jordan Lake Rules. Mr. Royal stated what would happen with the existing ordinance was they would have to exclude that ordinance from the Jordan Lake Watershed because they could not have two ordinances in the same Watershed. They would have to modify it by essentially excluding the Jordan Lake Watershed from that ordinance and bringing in the State language for Jordan Lake only. Chairman Bock stated or, by the way it was written it was saying that if they adopted the Jordan Lake Rules for the Jordan Lake Watershed area they would then adopt those same rules County-wide. Mr. Royal responded no, not the State rules; the State rules would only apply in the Jordan Lake Watershed.

Commissioner Kost stated the concern, then, was that as they streamlined their environmental ordinances that there may be changes that were less environmental protection than they had now. It appeared to her they should write the ordinance consistent with the County Stormwater Management rules, which provided more protection. Mr. Royal stated it depended on exactly what you were talking about. Commissioner Kost replied water quality. Mr. Royal stated it could be argued that the State rules were more restrictive because of the nitrogen and phosphorus requirements which were very difficult to meet. Commissioner Kost stated she understood he had said that the County's ordinance did not address it, so they would have to include that. Mr. Royal replied they would in the Jordan Lake Watershed. The State rules were making the regulations more restrictive in the sense of nitrogen and phosphorus in the Jordan Lake Watershed than it was currently. The only water quality at present in the Jordan Lake Watershed was the volume and discharge rate for that volume, which was in effect a water quality component, and the 85% total suspended solids. So, it would strengthen the stormwater rules in the Jordan Lake Watershed.

Commissioner Kost asked if the Jordan Lake provisions would be a part of the County's stormwater ordinance or would it be a stand-alone stormwater ordinance. Mr. Royal stated it could be either/or, in that they could adopt a stand-alone ordinance for the Jordan Lake Watershed only and either keep and modify, or not, the ordinance for the rest of the County as a separate document. He would recommend that they blend the two and modify what was necessary to make it work. Commissioner Kost stated she believed it would be easier to have all

the regulations in one ordinance. Mr. Royal stated that had worked well when they had blended the State rules into the Watershed Protection Ordinance.

The County Manager stated assuming they had something in place, what would be the enforcement process particularly with the nutrient rules. Mr. Royal replied that currently enforcement was not very proactive but was complaint driven. For the new rules it would be the County's job to do the enforcement. If a development got permitted, the numbers were good, and the project went forward, then in order to ensure that it was operating correctly it would mean that field inspections would have to be made by County staff.

The County Manager stated going forward, what kind of data would have to be traced back to origin. For example, if you had three subdivisions upstream and something was detected, he would assume you would have to go back to origin to determine where the violation originated. Mr. Royal stated they would have to determine where the sediment or nutrients were coming from, more so the nutrients. It was not built into the ordinance how to monitor, in that the State had said it would do the monitoring once the numbers were met. But, the State was silent on what happened if a problem continued to occur. Part of the work on the advisory board was creating "what if" scenarios so that such things could be addressed.

Commissioner Kost moved, seconded by Commissioner Cross, to authorize the Environmental Resources Director and other staff to write the draft text amendments to the Stormwater Ordinance, based on Option 3.

Commissioner Stewart asked what the impact was of recreational use on the water quality of Jordan Lake. Mr. Royal stated from his experience the negative impact was only litter and not from gas and oil from boats. If a professional were to be asked that question, the response would be that most boaters were smart in regards to their gas and oil, and the real issue was litter-based, especially floatables because there were not enough park service crews to remove that litter. That was why periodic volunteer cleanups were so important.

Commissioner Stewart asked were there requirements of other counties that were contributors upstream; that is, was the County talking with them about tightening some of their regulations so that they were not having such an impact. Mr. Royal stated those counties were represented on the board he served on. As an example, Greensboro had a very strict stormwater ordinance and had a stormwater utility, and they had stated repeatedly that they were doing everything they could to reduce any pollutants traveling downstream. He said Greensboro was doing state-of-the-art work, but they just had such an enormous problem that it was just not something that could be addressed quickly and it would take years and years of work. Durham and UNC and all the larger, older municipalities had the same story, in that they were doing everything possible based on best practices. What everyone was worried about was the Stage 2 existing development piece, and it appeared that if that were to happen they were looking at eminent domain, or takings, and doing things that may or may not be exactly legal because it had never been tested.

Commissioner Stewart asked about Falls Lake, noting that she assumed they had similar issues. Mr. Royal stated that was a worse case than Jordan Lake, in that they had more nitrogen and more phosphorus to remove. Commissioner Stewart asked if they were learning from what Falls Lake was or was not doing that might be a contributor. Mr. Royal stated that the Jordan Lake Rules had been going around for eight years, so they were in the lead. Falls Lake was looking at Jordan Lake but was following its own track. The advisory board he sat on was centered on Jordan Lake and the model they kicked out would be used State-wide including Falls Lake, Lake Norman, and any others.

Chairman Bock stated that he did not necessarily disagree with the recommendation, but he would vote no on the motion only because he wanted more time to study the issue before he could vote yes.

Commissioner Cross stated he believed the motion was for staff to work on combining the two and then the Board would look at it again.

Chairman Bock stated he understood that, but he would not want to have staff do all that work and then have the Board say that Option 4 was better. He noted he may come around to saying yes to Option 3 if he had a couple more weeks to study the issue.

Commissioner Kost asked what additional information he needed.

Chairman Bock stated he simply wanted to gather all the information and read through it to gain a better understanding.

Chairman Bock called the question. The vote was two (2) to one (1) with Chairman Bock opposing. Chairman Bock noted that Commissioner Stewart had not cast her vote.

Commissioner Stewart stated she was still trying to determine how she would vote, noting she, too, wanted to understand Option 3 a little better. Mr. Royal stated that the current ordinance had requirements and processes that he believed needed refinement. It was written with a lot of alternatives to provide the opportunity for people to get their projects done, and he wanted to take another look at those alternatives to give people as much room to do what they wanted to do and still meet the intent of the ordinance. One of the alternatives was called the ten percent rule, and it allowed an exemption for the water to peak discharge if you met some standards and he believed that should be clarified more. There was also the watershed question, in that did they really want to know what watershed something was in and if so, what had to be done in that watershed. That was a lot of moving parts in the ordinance.

Commissioner Stewart asked would Option 3 plug those holes. Mr. Royal responded that Option 3 would move towards plugging the holes, and would also make it more clear what had to be done in other parts of the County with more alternatives. He would encourage the Board to look at the alternatives in the ordinance to see if they had any questions or concerns.

Commissioner Cross stated that they still required the 1.43. Mr. Royal stated that was correct, as it was currently written.

Commissioner Stewart asked why they required exactly the 1.43. Mr. Royal stated that in thinking about the performance standards with this new ordinance in 2008, they had asked themselves how they could capture the most typical storm event which was what they wanted to target. They had done a statistical analysis of all rainfall events in the past 25 years at RDU and in Pittsboro, and 1.43 was the number that had been derived. That was a fairly sizable rainfall event, but that 1.43 number would be revisited if the Board wanted to do so.

Commissioner Stewart stated that as new technology was developed going forward that number might improve. Mr. Royal stated that best management practices were continuously changing. For instance, they were putting level spreaders at the new northeast park and NC State would do the installation and monitoring using a grant the County had received for that purpose. That was a very new product for water quality, and after a couple of years they would have a lot of information about how well that worked. Commissioner Stewart asked had he ever considered using the floating islands. Mr. Royal stated he had never designed one but had heard they worked fairly well.

The County Manager asked if Option 3 included the nutrient rules. Mr. Royal replied yes, but in the Jordan Lake Watershed only. The County Manager stated then the three sub-basins out of the Jordan Lake Watershed were not a part of the nutrient rules. Mr. Royal stated they were, noting that the upper arm of New Hope as well as the lower arm of New Hope was all within the Jordan Lake Watershed and all had different nutrient rules from one another. The County Manager wondered how that would work with farms in different parts of the County. Mr. Royal replied that farming was exempt from stormwater completely, and there was an agricultural committee that had to come up with nutrient management standards for agriculture in the Jordan Lake Watershed. He was not a part of that, and it was likely a couple of years behind stormwater. They did not have to monitor anything because of the rules, in that they did not have to treat forestry or agriculture any differently. This was strictly directed towards new development during Stage 1, and if Stage 2 ever kicked in they would have to look at existing development and he was unsure how they would deal with that should it happen.

The County Manager stated he asked because as they went forward that would be an important ingredient of the education and communication process for people because he felt sure it would likely be misunderstood. Mr. Royal agreed, noting the State was attempting to do a good job of communicating the rules but it was easily bogged down.

Commissioner Kost stated that as a point of order, the Board had voted and the outcome was two to one so the motion carried. Mr. Rose stated that was not correct because one Board member had not yet cast her vote. Commissioner Kost stated but, they had voted and the motion had carried, so if the Board wanted to consider something different then they would have to introduce a new motion. Mr. Rose suggested allowing Commissioner Stewart to cast her vote. Commissioner Kost argued that was not the correct procedure. Mr. Rose stated that Commissioner Stewart had said she wanted to ask a question prior to casting her vote.

Chairman Bock stated that they had not yet ended the vote and the motion had not yet been declared as passed.

Commissioner Kost stated that appeared odd to her.

Chairman Bock stated it was no odder than making a motion without being recognized by the Chair first, but they sometimes made exceptions. He asked Commissioner Stewart if she was ready to vote.

Commissioner Stewart stated at this point it really did not matter, and believed it was acceptable to allow staff to move forward with Option 3.

Chairman Bock declared that the motion had carried three (3) to one with Chairman Bock opposing.

TRANSPORTATION ADVISORY BOARD UPDATE

Faythe Canson Clark, Transportation Advisory Board Chair, provided the following PowerPoint presentation with assistance from Phil Bors, Vice Chair of the TAB:



Chatham County Transportation Advisory Board (TAB)

Update to Commissioners

April 4, 2011

Faythe Canson, Chair | Philip Bors, Vice-Chair

History of TAB

BACKGROUND

On February 1, 2010, the Board of Commissioners approved the bylaws of a Transportation Advisory Board (TAB). The TAB consists of 11 voting members and six non-voting appointed by their respective entities, including Pittsboro, Siler City, Goldston, Cary, Chatham Transit Network, and Chatham County.

Voting members represent all five commissioner districts as well as the following transportation “interest areas” as suggested by the BOC environment, social, non-motorized, economic, public safety, public transportation, and personal motor vehicle.



TAB Vision, Mission

- To educate and advise the Board of Commissioners
- To serve as a venue for public discourse in all matters related to transportation impact including :
 - Public health
 - Economics
 - Environment
 - Inclusiveness
 - Education
 - Quality of life
- To achieve a sustainable, multi-modal transportation system that provides mobility and access for people and goods.

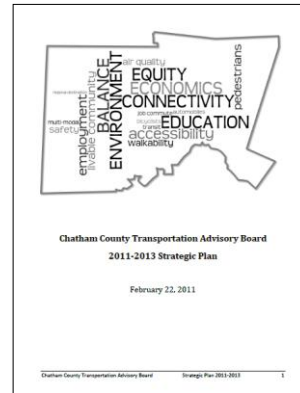
TAB Strategic Plan: Purpose

The Chatham County Transportation Advisory Board’s Strategic Plan is:

- A “roadmap” for board members in accomplishing the mission of the Board over the next four years;
- A dynamic document that helps the Board assess, anticipate and address transportation issues; and,
- A communication tool that expresses the TAB’s intentions to the Board of Commissioners, other advisory boards, government and community-based organizations, businesses and the public.

TAB Strategic Plan Contents

- Statement of values, priorities
- Current conditions
 - Road network
 - Non-motorized transportation
 - Public transportation providers
 - Regional planning
- Goals and strategies
- Detailed background references



Key Observations

- Good highway/road infrastructure
- Chatham is split among regional planning entities
- Non-motorized aspects have been overlooked and have unintended consequences
 - Health, environment
- Significant out-commuting
 - Orange, Durham, Wake, Lee
- Mostly single vehicle – long distances
 - 77% of all commuters



Key Observations (cont.)

Benefits of a balanced, multi modal system

i.e. motor vehicles, public transportation, bikes, pedestrians

- Economic
- Health
- Air/water quality
- Quality of life



Goals

1. Public participation
2. Guidance on policies and plans
3. Guidance on transportation projects
4. Provide input on transportation services
5. Measure quality of transportation system
6. Information sharing

Strategies

- TAB Meetings as public input opportunities
- Venue for Chatham Comprehensive Transportation Plan (CTP) process
- Seek out and share information on transportation related funding sources, best practices, and other resources

Our Request

- Validation of TAB role: public input, resource for BOC
- The BOC consults the TAB on transportation issues
- Continuing dialog on transportation issues that helps the Transportation Advisory Board and the Chatham County Board of Commissioners assess, anticipate and address the transportation needs of Chatham County



Commissioner Kost remarked that she had found the report to be very informative in that there was a lot of good background information, adding she would like to see the updated information. She believed the report was very well laid out and very thoughtful, and thanked the

TAB for that work. Ms. Clark stated that Mr. Bors was the lead on developing the Strategic Plan and deserved most of the thanks.

Chairman Bock agreed with Commissioner Kost. He stated going back to the point about the 2000 Census, he asked did the 2010 Census even ask for that same information.

Commissioner Kost stated that the census was being done differently now, in that every other year they would be collecting demographic data off cycle so that it would not be a part of the ten-year census. Ms. Clark stated that would allow them to take a look at the data by blocks rather than all at once.

Mr. Bors stated that would also allow them to dig for more data when they did the NCDOT Comprehensive Plan process that was more recent.

Commissioner Stewart stated they had mentioned bikers as being a benefit, but from what she had heard in Chatham County it was actually a safety hazard. There were a large number of bikers that road throughout the County and rode in large groups. Some roads were very rural with very few passing opportunities which caused frustrating situations particularly for seniors. She asked had any of that been discussed by the TAB. Ms. Clark stated that had been discussed initially with the young man who had done the study. One of the things she had brought up was people trying to get to church on Sunday morning who became very frustrated when they were trapped behind bicycle traffic on single-lane roads. So, she said, he was aware that there were some issues in terms of how bicyclists planned their outings, and had even discussed with him whether there was a way to post a bike plan so that people would know what areas to avoid during times when there were multiple riders on particular roads. She said they were waiting to hear back from him on that. Commissioner Stewart stated that some roads should actually not be used by bicyclists because of the curves where people could not see around them, making that even more of a safety hazard.

Mr. Bors stated he believed they were talking about places where there was a conflict of space. Many of the roads were signed as NC bike routes, but the point which had been validated by the bicyclists who had responded to the survey was that they too were concerned about safety. The point was to be able to develop a transportation system over time that when roads were redone that there was enough room to accommodate both drivers and bicycles. By law, bicycles were considered a vehicle under NC law, but that did not mean that there were not legitimate conflicts and legitimate safety concerns for both bicyclists and drivers.

Ms. Clark stated that was one of the purposes of having the bike plan be a part of the transportation plan, because once they had it in place they could say they had a plan and if funding became available they could act on that plan.

Commissioner Kost stated up until the current administration, Secretary Conti had said that DOT now was considering bike paths, whereas before when resurfacing was done it was not considered. That was now included in the mix so that was a big step in the right direction.

Mr. Bors stated that the State's Board of Transportation had adopted a complete streets policy, although they were not yet sure what the implementation would be. They did know more about what it meant within municipalities, but outside of municipalities it was essentially highways.

Commissioner Stewart stated that in the Silk Hope area there were many bicyclists on the weekends.

Chairman Bock went through the three points in the Strategic Plan including the validating of TAB's role, and asked if there were any further questions. There were none offered.

By consensus, the Board agreed to approve the TAB Strategic Plan.

ADJOURNMENT

Commissioner Stewart moved, seconded by Commissioner Cross, to adjourn the meeting. The motion carried four (4) to zero (0), and the meeting adjourned at 4:03 PM.

Brian Bock, Chairman

ATTEST:

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