

MINUTES
CHATHAM COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING
NOVEMBER 05, 2001

The Board of Commissioners (“the Board”) of the County of Chatham, North Carolina, met in the Agricultural Auditorium Building, 45 South Street, located in Pittsboro, North Carolina, at 10:00 AM on November 05, 2001.

Present: Chairman Gary Phillips; Vice Chair Margaret Pollard; Commissioners Bob Atwater, Rick Givens, and Carl Outz; County Manager, Charlie Horne; County Attorney, Robert L. Gunn; Assistant County Manager, Paul Spruill; Finance Officer, Vicki McConnell; and Clerk to the Board, Sandra B. Lee

The meeting was called to order by the Chairman at 10:05 AM.

AGENDA

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

The County Manager asked that the Voluntary Ag Districts Ordinance be added to the Agenda as Item #10A and that an appointment to the E-Communities Committee be added to Agenda as Item #16A.

Commissioner Givens asked for ten minutes to talk about anti-terrorism and an issue regarding CP&L be added to the Agenda as Item #14A and #14B.

Commissioner Pollard moved, seconded by Commissioner Givens to approve the Agenda with the noted requests. The motion carried five (5) to zero (0).

CONSENT AGENDA

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

Commissioner Givens moved, seconded by Commissioner Pollard, to approve the Consent Agenda. The motion carried five (5) to zero (0).

1. **Minutes:** Consideration of a request for approval of Board Minutes for meeting held October 15, 2001 and Work Sessions October 15, 2001 and October 01, 2001

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

2. **Property Tax Exemption for Recycling for Youth, Inc.:** Consideration of a request to approve late application for property tax exemption for Recycling for Youth, Inc.

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

3. **Bad Debt Write-Off:** Consideration of a request to approve a bad debt write-off for the Chatham County Health Department, attached hereto and by reference made a part hereof.

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

4. **Private Road Name:** Consideration of a request to approve a request from citizens for the naming of a private road in Chatham County as follows:

Hinshaw Street

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

5. **Trees of Strength Resolution:** Consideration of a request to approve **Resolution #2001-34 Trees of Strength**, attached hereto and by reference made a part hereof

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

6. **Council on Aging Building Fund Request:** Consideration of a request to appropriate an additional \$3,220 to retire the mortgage debt on the Chatham County Council on Aging Building in Pittsboro

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

INPUT SESSION

Shirley Dean, 1503 Old Sanford Road, Moncure, NC, stated that in 1995 a committee in Asbury met and tried to get water; that she visited each household on the Old Sanford Road and the Chatham Church Road to see how many people were having water problems and needed County water; that the results were presented to the Commissioners and the Planning and Water Committee and they drew a map with proposed water system extensions; that at the same meeting, it was voted on that they would get water; that the people waited and no water came; that in 1999, they returned to the Commissioners and presented the Water Committee with copies of quality water surveys from everyone; that the water use agreements for Chatham County were signed, notarized, and turned in; that there is a line run to Log Barn Road and one from Sanford to the 3M Company; that it is understood that the County paid for the line to 3M; that it was hoped that the line would be run from Pittsboro to save the County money and supply them with water; and that they are in between the two lines. She asked that the Board please try to get water for them.

John Gray, 112 Cub Creek Extension, Chapel Hill, NC, spoke with regard to all-terrain vehicles (ATVs) or four-wheelers. He asked that the County consider adopting a local ordinance requiring written permission from the owner or lessee of any given piece of property for the operation of such vehicles on that property. He stated that it would help in dealing with some safety and liability issues; that there have been some notable cases in dealing with persons operating ATVs were injured on property and lawsuits resulted; that sometimes owners or people who control the property do not know that the vehicles are there; that an ordinance would put the responsibility on the operator of the vehicle to secure permission to be on a given piece of property. He offered his help in accomplishing this task.

NORTH CAROLINA RURAL COMMUNITIES ASSISTANCE PROJECT

This item was deferred until a later date.

UNITED WAY PRESENTATION

Beth Burkes, Executive Director of the United Way, thanked the Board for their whole-hearted support of the non-profits in the County stating that she had seen each Commissioner at many different events.

Ms. Burkes reviewed United Way's role as a community solution provider including volunteer center, 211 Service (a health and human service information referral line), Spanish lessons, Gifts In Kind, Women's Network, technical assistance, issue-based grants, and the Human Relations Commission. She also reviewed United Way's impact in the community as to how and whom it helps and United Way's track record. She offered her services in planning for emergencies and crisis in the County.

PLANNING AND ZONING

Variance from the Chatham County Educational Facilities Impact Fee Ordinance:
Consideration of a Zoning Board of Adjustment request by West Raleigh Investors, LLC, for a variance from the Chatham County Educational Facilities Impact Fee Ordinance

BOARD OF ADJUSTMENT

Commissioner Pollard moved, seconded by Commissioner Givens, to recess as the Chatham County Board of Commissioners. The motion carried five (5) to zero (0).

Commissioner Givens moved, seconded by Commissioner Outz, to convene as the Chatham County Board of Adjustment. The motion carried five (5) to zero (0).

The Chairman administered the oath to those in attendance who wished to make public comments.

Glenn Lassiter, Attorney speaking on behalf of West Raleigh Investors, LLC, stated that town officials in Siler City indicated the County's position was that the townhouses in their project were considered single family, rather than multi-family, and that the impact fee for each unit was \$1,500 rather than the \$500 per multi-family unit; that considering the time constraints, they paid \$1,500, albeit under protest, in order to obtain the necessary permits for their project to proceed; that this position is that the plain language of the ordinance is far more supportive of defining our project as multi-family than single family and that they have therefore been forced to overpay by an amount of \$1,000 per unit; that they respectfully request that the Board of Adjustment instruct the County to refund those excess fees and declare that the townhouses be declared single family dwelling units.

He thanked the Planning Director and staff for their consistently professional and cooperative manner in the handling of this request.

Jeff Milholen, stated that they are starting a small development company in Chatham County with hopes of building quality and affordable housing; that they have been responsible for putting the project on the map that the Town of Siler City Commissioners are proud of; that it is going to be a large tax base somewhere near three and one half million dollars; that about half of the prospective buyers are already Chatham County residents; that these folks are going to get hit with a \$1,500 impact fee to move into a town home, mainly so that they do not have to worry about security and lawn maintenance; that the impact fee is quite a bit to ask people to pay that have lived in the County their entire working career; that it could have been called a retirement community and a lot of things could have been done to avoid the impact fee; that his concern is the fact that \$500 versus \$1,500 is a large gap; that with the wording of the ordinance being ambiguous, \$1,000 per unit is a lot of difference; that if the impact fee was \$500 and \$750 for apartments

versus townhomes, it would be one thing; that they have a forty-acre tract of land on which a sixty unit townhouse project is planned; that they would have to think about whether they are called townhouses or apartments and rent them for a while as a developer trying to defer some expenses and eventually sell them; that he feels that the Board needs to consider this issue very quickly; and that they are not opposed to paying an impact fee, but that he feels that the difference in the two and the language written in the ordinance needs to be considered.

Keith Megginson, Planning Director, reviewed the receipt showing the amount paid in impact fees (#6149), the Town of Siler City's Conditional Use Permit recorded in the Register of Deed's Office, (Book 823, Page 442), the preliminary covenant listed as Lakewood Manor Townhomes, and the building plans for Lakewood Manor Townhomes; that these plans show the party walls (walls with the air space in the middle); that State building codes state that there has to be a two-hour fire wall between units; that according to records, the applicant received permits from Siler City for five buildings with four dwelling units in each building; that the Siler City Planning Director informed the County that the applicant plans on dividing the individual units for sale; that the definition section of the Amended Chatham County Educational Facilities Impact Fee Ordinance stated that a single family residential dwelling unit is, "A residential use consisting of a building designed or constructed to contain one dwelling unit which may be either detached or attached."; that attached dwelling units which are designed and constructed for division as individual dwellings, with the connecting party wall having an air space, are treated as attached single family dwellings; that this has been the County policy with other townhouses such as the ones located in Governors Club and Fearington; that one of the determining factors of whether a building with more than one dwelling is a single family attached or a multi-family building is whether it is designed and constructed for division into individual units for sale; that since the applicant's buildings have an air space in the party wall between the individual units, it is classified as a single family attached unit as have previously permitted townhouses; that if the buildings were constructed such that they could not be single family individual dwellings, then they would have been classified as multi-family dwellings; that the basis for the difference in the amount of the impact fees is the impact fee study which looked at student generation rates of different types of dwellings; and that since multi-family units generally have fewer school age children than single family dwellings, the impact fees are less for multi-family.

Mr. Lassiter objected to consideration of anything to do with the State building code stating that the ordinance does not reference the building code anywhere; and that one can not reference any other codes. He further stated that the ordinance, as applied, arbitrarily discriminates between apartment homes and townhomes without a basis in the definition section of the ordinance.

County Attorney, Robert Gunn, stated that the reasonable usage of the detached or attached single family units was so that the County did not have to foresee every name that may be placed on a unit of that nature any time in the future; that he thinks that the ordinance is clear that if it is a single family, attached or detached, that it is subject to the fee; that he does not feel that the ordinance is ambiguous or deficient nor does he feel that it is unclear.

After further discussion, Commissioner Pollard moved to accept staff recommendation and deny the request by West Raleigh Investors, LLC for a variance from the Chatham County Educational Facilities Impact Fee Ordinance. Chairman Phillips seconded the motion.

Commissioner Atwater stated that because the ordinance includes "of a building designed" makes it clear to him that it should be considered a single family dwelling.

The Chairman called the question. The motion carried three (3) to two (2), with Commissioners Givens and Outz opposing.

BOARD OF COMMISSIONERS

Commissioner Pollard moved, seconded by Commissioner Givens, to adjourn at the Chatham County Board of Adjustment and reconvene as the Chatham County Board of Commissioners. The motion carried five (5) to zero (0).

Land Use Development Plan: Consideration of a request to adopt the Chatham County Land Use Development Plan

Commissioner Pollard moved, seconded by Commissioner Atwater, to adopt the Chatham County Land Use Development Plan, attached hereto and by reference made a part hereof. The motion carried five (5) to zero (0).

Voluntary Ag Districts Ordinance: Consideration of a request to adopt the Voluntary Ag Districts Ordinance

Commissioner Givens moved, seconded by Commissioner Outz, to adopt the Voluntary Ag Districts Ordinance, attached hereto and by reference made a part hereof. The motion carried five (5) to zero (0).

HEALTH DEPARTMENT

Division of Environmental Health Policy on Maximum Acreage Evaluation: Consideration of a request to approve the Division of Environmental Health Policy on maximum acreage evaluated per application

Commissioner Givens moved, seconded by Commissioner Outz, to adopt the Maximum Acreage Evaluated per Application for Improvement Permit Policy, the maximum size of property evaluated upon receipt of an application to be three (3) acres by auger borings or five (5) acres if applicant provides pits for evaluation, effective January 1, 2002, attached hereto and by reference made a part hereof. The motion carried five (5) to zero (0).

PUBLIC WORKS

Availability Fee Relief: Consideration of a request for County participation in the actual cost of waterline extensions to Mr. Bill Lowery's properties up to 75% of the availability fees paid by Mr. Lowery

Commissioner Givens moved, seconded by Commissioner Outz, to accept staff recommendation and participate in the actual cost of waterline extensions to Mr. Bill Lowery's properties up to 75% of the availability fees paid by Mr. Lowery. The motion carried five (5) to zero (0).

Availability Fee Relief: Consideration of a request for relief of one-time waiver of 75% of current availability fee for one service for Mr. Alan Segó

Commissioner Pollard moved, seconded by Commissioner Outz, to approve a one-time credit in the amount of \$656.25 to Mr. Alan Segó, against the water availability fee for a water service to the residence he is now constructing, in consideration of funds previously expended by him in construction of a water line to his property. The motion carried five (5) to zero (0).

Front-Loading Vehicle Purchase: Consideration of a request to purchase a new front-loading

vehicle for the Waste Management Division of Public Works

Commissioner Givens moved, seconded by Commissioner Atwater, to waive the competitive bid process under GS 143-129(g). The motion carried five (5) to zero (0).

Commissioner Givens moved, seconded by Commissioner Atwater, to award the bid for a new front-loading vehicle for the Waste Management Division of Public Works to Cavalier Equipment Corporation of Cloverdale, VA. The motion carried five (5) to zero (0).

SECURITY

Commissioner Givens stated that he had spoken with CP&L representatives with regard to security measures in transporting spent fuel rods. He suggested that the Chairman and he be allowed to receive a security briefing on the Shearon Harris Plant after which they could share the information with other members of the Board and public.

By consensus, the Board agreed that they should each be involved in the security briefings on the Shearon Harris Nuclear Plant.

Commissioner Atwater moved, seconded by Commissioner Outz, to support the initial briefing of the two Commissioners on safety issues and formally request from CP&L a security briefing for each member of the Board of Commissioners as representatives of the public. The motion carried five (5) to zero (0).

Commissioner Givens gave a demonstration of how easy it would be to slip an explosive into a public building. He emphasized the need to revise the emergency plan in each office of the County and asked that they be presented to the County Manager upon completion.

BOARDS AND COMMITTEES

Human Relations Committee Appointment: Consideration of a request to appoint a replacement to the Human Relations Committee by Commissioner Outz

This item was deferred until a later date.

ABC Board Appointments: Consideration of a request to (re)appoint members to the ABC Board

This item was deferred until a later date.

E-Commerce Appointment: Consideration of a request to appoint a member to the E-Commerce Commission

Commissioner Pollard moved, seconded by Commissioner Atwater, to appoint Bret Pedigo, 220 Chatham Business Drive, Pittsboro, NC, to the E-Commerce. The motion carried five (5) to zero (0).

Commissioner Pollard asked about appointing two members to this committee.

The County Manager is to inquire with regard to this matter.

MANAGER'S REPORTS

The County Manager reported on the following:

Update on Terrorism: The County Manager stated that the County is working hard on changes with regard to security and terrorism; that there are two scheduled briefings; that the County's task is to set up a process where the County can respond quickly and to be able to observe and respond as early as possible; that there may be changes to the budget, due to the new climate in which the County is in; and that all departments are included in this endeavor.

COMMISSIONERS' REPORTS

Water:

Commissioner Outz asked how many citizens in Shirley Dean's area had signed-up for water. He asked if an arrangement could be worked out with the Town of Pittsboro to get water to this area.

Taste of Chatham:

Chairman Phillips stated that the "Taste of Chatham" event was extremely successful and that the mortgage on the Council on Aging building was burned.

Work Session:

Chairman Phillips asked that the Board return to begin the Work Session at 1:00 PM.

LUNCH RECESS

Commissioner Givens moved, seconded by Commissioner Outz, to recess the meeting for lunch. The motion carried five (5) to zero (0), and the meeting was recessed at 11:55 AM.

Gary Phillips, Chairman

ATTEST:

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