

MINUTES
CHATHAM COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING
DECEMBER 09, 2002

The Board of Commissioners ("the Board") of the County of Chatham, North Carolina, met in the Superior Courtroom, located in Pittsboro, North Carolina, at 7:00 PM on December 09, 2002.

Present: Commissioners Margaret Pollard, Bob Atwater, Carl Outz, Tommy Emerson, and Bunkey Morgan; 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. Sublett

The meeting was called to order by Vice Chair Pollard at 7:05 PM.

PLEDGE OF ALLEGIANCE AND INVOCATION

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

OATHS OF OFFICE

Judge Charles T. Anderson administered the oaths of office to Carl Outz, Tommy Emerson, and Bunkey Morgan as Chatham County Commissioners. Judge Anderson congratulated the new Board members and thanked them for their service to Chatham County. The oaths are attached hereto and by reference made a part hereof.

ORGANIZATION OF THE BOARD

Chairman

County Attorney, Robert Gunn, presided over the organization of the Board. He opened the floor for nominations for Chairman of the Chatham County Board of Commissioners.

Commissioner Outz nominated Commissioner Emerson for Chairman of the Chatham County Board of Commissioners. Commissioner Pollard seconded the motion.

Commissioner Morgan moved that the nominations for Chairman of the Chatham County Board of Commissioners be closed. Commissioner Outz seconded the motion. The motion carried five (5) to zero (0).

Hearing no other nominations, the presiding officer called for a vote for Commissioner Emerson as Chairman of the Chatham County Board of Commissioners. The motion carried five (5) to zero (0).

Vice Chairman

The Chairman opened the floor for nominations for the Vice Chairman of the Chatham County Board

of Commissioners.

Commissioner Morgan nominated Commissioner Outz for the office of Vice Chair. Commissioner Atwater seconded the motion.

Hearing no other nominations, the Chairman called for a vote for Commissioner Outz as Vice Chair of the Chatham County Board of Commissioners. The motion carried five (5) to zero (0).

APPOINTMENT OF CLERK TO THE BOARD

Commissioner Atwater moved, seconded by Commissioner Outz, to reappoint Sandra B. Sublett as Clerk to the Chatham County Board of Commissioners. The motion carried five (5) to zero (0).

APPOINTMENT OF COUNTY ATTORNEY

Commissioner Morgan moved, seconded by Commissioner Outz, to reappoint Robert L. Gunn as the County Attorney. The motion carried five (5) to zero (0).

AGENDA

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

The County Manager asked that the presentation on the Chatham County Small Business Center by Mr. Leon Tongray be deferred until a later date. He also asked that a public hearing on the "Intent to Close Certain Portions of Public Streets and Alleyways in the Village of Bennett, Chatham County, North Carolina", advertised for the December 9, 2002 Board of Commissioners' meeting be added to the Agenda as the first item after the Public Input Session; and that a Closed Session be added to the end of the meeting to discuss litigation.

Commissioner Atwater moved, seconded by Commissioner Pollard, 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 Morgan asked that Item #1, Minutes, Item #5, Budget Amendments, and Item #7, Approval of Plan Review Fees Assessed by the Environmental Health Division be removed from the Consent Agenda and placed on the Regular Agenda for discussion.

Commissioner Morgan moved, seconded by Commissioner Outz, to approve the Consent Agenda with the noted requests.

1. ~~Minutes: Consideration of approval of Board Minutes for regular meeting held November 18, 2002 and work session held November 18, 2002~~

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

2. **Refunds on Regular Tax Bills:** Consideration of a request for approval of refunds on regular

tax bills paid in error, attached hereto and by reference made a part hereof.

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

3. **Tax Releases:** Consideration of a request for approval of tax releases, attached hereto and by reference made a part hereof.

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

4. **Naming of Private Roads:** Consideration of a request from citizens for the naming of private roads in Chatham County as follows:

- A. **JW Perry Lane**
- B. **Lucas Lane**

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

- ~~5. **Budget Amendments:** Consideration of a request for approval of Fiscal Year 2002-2003 Budget Amendments~~

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

6. **Decrease in Health Department Funds for Fiscal Year 2002-03 Budget:** Consideration of a request to approve a decrease in Family Planning & Aid to Counties Funds, Smart Start Funds, Kate B. Reynolds Grant Funds, and Jordan Grove Church Project Funds for the Health Department's FY 2002-03 Budget

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

- ~~7. **Approval of Plan Review Fees Assessed by the Environmental Health Division:** Consideration of a request to approve plan review fees assessed by the Environmental Health Division of the Health Department for new or renovated food establishments~~

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

8. **Funds Acceptance from the NC Division of Public Health:** Consideration of a request to accept additional funds in the amount of \$20,000 from the NC Division of Public Health for the Health Department's Special Immunization Project

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

9. **Funds Acceptance from the Chatham County Asthma Coalition:** Consideration of a request to accept additional funds in the amount of \$5,000 allocated to health departments to develop, implement, and evaluate interventions to improve the health of children with asthma

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

10. **Funds Acceptance from NC Department of Environment and Natural Resources:** Consideration of a request to accept funds in the amount of \$130 from NC Department of

Environment and Natural Resources (NCDENR) for Childhood Lead Poisoning Prevention

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

11. **Funds Acceptance from the Division of Public Health:** Consideration of a request to accept funds in the amount of \$3,000 from the Division of Public Health for the Health Department to develop preparedness training in the event of bio-terrorism events

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

12. **Funds Acceptance from Lee County:** Consideration of a request to accept funds in the amount of \$5,400 from Lee County for the continuance of providing temporary provision of animal care, adoption, and euthanasia services through 12-30-02 rendered by the Chatham County Animal Control Program

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

13. **Resolution for the Addition of Streets or Roads to the North Carolina System of Secondary Roads – Baxter, Porter, Settle, Walser, Long, Moring Drive & Moring Drive Extension within the Governor's Village Subdivision:** Consideration of a request for approval of **Resolution #2002-50 for the Addition of Streets or Roads to the North Carolina System of Secondary Roads – Baxter, Porter, Settle, Walser, Long, Moring Drive & Moring Drive Extension within the Governor's Village Subdivision**

END OF CONSENT AGENDA

PUBLIC INPUT SESSION

Gerald Totten, 108 Petty Road, Siler City, NC 27344, stated that tonight Chatham County enjoys a new beginning throughout government; that the residents have an opportunity to enjoy what they have worked for; that the elected officials survived the democratic process; that while it was contentious at times, it is the democratic way; that it is incumbent upon everyone to support and encourage all of the elected officials without rancor, putting aside the convictions there might have been about different candidates; that to act otherwise is rebellion; that the simple fact is that more voters cast their votes for and selected the present members than those who voted for the losers; that everyone can disagree with decisions, but the members now in office are there because they were voted there and that they deserve fairness and courtesy; that the inherited challenges ahead of the Board in the coming years are great and include economic development, adequate water sources for all residents and industry, the movement and storage of radioactive fuel locally, the management of waste, pressures from either real or imagined mandated programs without corresponding financial assistance; that there are a number of internal concerns such as what to do with a five-year old expensive Land Use Plan which is no closer to adoption today than it was when conceived, what constitutes affordable housing, what to do with Chatham County's reputation of supporting urban sprawl, and the ever increasing tentacles and cost of local government; that there are no road maps to follow on this journey but patience, understanding, and willingness to compromise are virtues that everyone will need in the coming months as experience is gained and everyone learns from each other.

Minutes Correction

Commissioner Morgan asked that the November 18, 2002 minutes, be changed to reflect the motions as follows:

Commissioner Givens moved, seconded by Commissioner Outz, to table the **Resolution to Attorney General Roy Cooper to Halt Rail Shipment of High-Level Nuclear Waste Across North Carolina.**

The motion carried three (3) to two (2) with Commissioners Phillips and Atwater opposing to table the resolution.

(*The above motion was amended to accurately reflect the correct vote as per the **January 6, 2003 Board of Commissioners' Minutes.**)

Commissioner Atwater moved, seconded by Chairman Phillips, to approve the revised **Resolution #2002-49 to Halt Rail Shipment of High-Level Nuclear Waste Across North Carolina**, attached hereto and by reference made a part hereof. The motion carried three (3) to two (2) with Commissioners Givens and Outz opposing.

Budget Amendments

Budget Amendments: Consideration of a request for approval of Fiscal Year 2002-2003 Budget Amendments

After discussion, Commissioner Morgan moved, seconded by Commissioner Pollard, to approve Fiscal Year 2002-2003 Budget Amendments, attached hereto and by reference made a part hereof. The motion carried five (5) to zero (0).

Plan Review Fees Assessed by Environmental Health Division

Approval of Plan Review Fees Assessed by the Environmental Health Division: Consideration of a request to approve plan review fees assessed by the Environmental Health Division of the Health Department for new or renovated food establishments

Commissioner Morgan moved, seconded by Commissioner Pollard, to defer this item until a later date for further clarification. The motion carried five (5) to zero (0).

CHATHAM COUNTY SMALL BUSINESS CENTER

Chatham County Small Business Center: Presentation on the Chatham County Small Business Center by Leon Tongray

This item was deferred until a later date.

PUBLIC HEARING FOR STREET CLOSING IN BENNETT, NC

Intent to Close Certain Portions of Public Streets and Alleyways in Bennett: Public hearing to receive public comments on a request to close certain portions of public streets and alleyways in the Village of Bennett, Chatham County, North Carolina

Sam Williams, Attorney, explained the specifics of the closing of the streets and alleyways in Bennett.

There was no one present who wished to make public comments on this matter.

Commissioner Atwater moved, seconded by Commissioner Outz, to adopt the order prepared by County Attorney for the closing of certain portions of public streets and alleyways in the Village of Bennett, Chatham County, North Carolina. The motion carried five (5) to zero (0). The order is attached hereto and by reference made a part hereof.

LOCAL BUSINESS PLAN FOR MENTAL HEALTH REFORM

Local Business Plan for Mental Health Reform: Presentation on and consideration of a request to approve the Local Business Plan for Mental Health Reform

Tom Maynard, Orange-Person-Chatham Mental Health Director, explained that the State has passed a law requiring mental health reform stating that they are required to submit a plan by January 1, 2003. He stated that what is new in the law is that the area authority structure, which has been in place in the past, will be dissolved; that each county will have more direct control over mental health services and can choose the means by which it carries out its responsibilities; that the State has required that counties band together in groups large enough to cover at least 200,000 citizens; that Orange, Person, and Chatham Counties, as banded together in the past, number 211,000 citizens; that on October 7, 2002, the Chatham County Board of Commissioners approved a joint resolution with the other two counties agreeing to work together, at least for the time being; that the new State law does permit each county to choose whether to stay or leave the association they have at any time; that a draft plan was delivered by November 1st as intended; that Commissioner Pollard and the County Manager have been representing the County on the steering committee; that the principal change in the second draft was to make it clear that they were promising a plan only if it resulted in no harm to any of the services to any of the citizens; that they are counting on the State to properly fund the plan; that if the State doesn't do it, the Commissioners are not willing to remain committed to the plan; that the plan includes the three counties and the structure changes so that the governing authority would be commissioners from each county; that there would be six commissioners who would be the governing authority for the new board; that there would be much stronger commission control of the mental health services; that they took citizen comments on September 9th; that no services will be eliminated; that virtually no citizen now receiving services would be cut out of services; that no additional county appropriations will be required; that other services have been asked for and will be added when the State is able to fund them; that the principal change in the entire process is that the prioritization of services, the prioritization of how resources will be deployed, becomes a locally controlled, transparent process, where information will be published so that citizens can have input as to how the services are prioritized. He asked for approval of the plan as it now appears.

Commissioner Pollard stated that she supports the plan in that they have told the State clearly that they will follow the plan if the State provides the funds for it.

The County Manager stated that they had worked hard to put the plan together in a way that leaves room to modify and adjust, while at the same time, emphasizing on numerous occasions within the document, that their success is contingent upon the State providing adequate funds as it has committed to do.

Commissioner Pollard moved, seconded by Commissioner Atwater, to support the plan as presented. The motion carried five (5) to zero (0).

PLANNING AND ZONING

Subdivision Final Approval of "Colvard Farms, Phase 2": Consideration of a request by Jeff N. Hunter for subdivision final approval of "Colvard Farms, Phase 2" consisting of 33 subdivision lots on approximately 34 acres off Highway #751, in Williams Township

As per the Planning Department and Planning Board recommendation, Commissioner Pollard moved, seconded by Commissioner Outz, to grant final approval of the plat as submitted subject to approval of the financial guarantee by the County Attorney. The motion carried five (5) to zero (0).

Sketch, Preliminary, and Final Approval of "Subdivision for Robert Vincent Earl, Jr.": Consideration of a request by Robert V. Earl, Jr., on behalf of Robert V. Earl, Sr. for sketch, preliminary, and final approval of "**Subdivision for Robert Vincent Earl, Jr.**", consisting of one (1) non-residential lot on approximately 1.50 acres, off SR #2154 (Taylors Chapel Road), in Oakland Township

As per the Planning Department and Planning Board recommendation, Commissioner Pollard moved, seconded by Commissioner Morgan to grant sketch, preliminary, and final approval of the request as submitted. The motion carried five (5) to zero (0).

Request by Carolina Waterscapes, Inc. for a B-1 Conditional Use Business District with a Conditional Use Permit: Consideration of a request by Carolina Waterscapes, Inc. for a B-1 Business Conditional Use District with a Conditional Use Permit for a landscape design business and a lawn and garden shop on approximately three (3) acres, off SR #1008 [Mt. Carmel Church Road], in Williams Township

As per the Planning Department and Planning Board recommendation, Commissioner Atwater moved, seconded by Commissioner Morgan, to approve the request with the following conditions:

1. Required landscaping shall be as specified by the Chatham County Appearance Commission and shall be shown on a revised site plan. Required landscaping shall be completed on or before March 15, 2003.
2. Lighting shall be as shown on the site plan and as approved by the Chatham County Appearance Commission with all lights being shielded on top and sides to prevent glare and spillage onto adjacent properties. Lighting on sign shall be "down lighting".
3. The business must be in operation on the property within 12 months from approval by the Board of County Commissioners and/or a building permit must be obtained within twelve (12) months from approval for any renovations to the structure and remain valid during the construction period or the conditional use permit will become null and void.
4. Prior to issuance of a building permit, an engineer's report on the structural integrity of the structure is to be provided to the Building Inspections Department.
5. Prior to issuance of a building permit, staff must receive a copy of the commercial driveway permit from NCDOT and a copy of the erosion control permit, if required, by NCDENR.
6. A seven-foot high fence shall be constructed to screen the dumpster on the rear of the property prior to March 15, 2003.

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

Proposed Amendment to the Chatham County Zoning Ordinance, Section 10.5: Consideration of a request to approve proposed amendment to the Chatham County Zoning Ordinance, Section 10.5 [B-1 Business District, A. Permitted Uses] to include arts and crafts fabrication and related sales

As per the Planning Department and Planning Board recommendation, Commissioner Morgan moved, seconded by Commissioner Pollard, to add this use to Section 10.5 (B-a Business District, A. Permitted Uses). The motion carried five (5) to zero (0).

BOARDS AND COMMITTEES

Workforce Development Board Appointment: Consideration of a request to appoint Mr. Gabriel Soltren, Community Coordinator with Gold Kist, to fill the private sector vacancy left by Ms. Barbara Butler

Commissioner Pollard moved, seconded by Commissioner Outz, to appoint Mr. Gabriel Soltren, Community Coordinator with Gold Kist, to fill the private sector vacancy to replace Ms. Barbara Butler, on the Workforce Development Board. The motion carried five (5) to zero (0).

Triangle J Council Of Governments (TJCOG) Smart Growth Committee Appointment: Consideration of a request to appointment to the Triangle J Council of Governments' Smart Growth Committee

Commissioner Outz moved, seconded by Commissioner Morgan, to defer this item until a later date. The motion carried five (5) to zero (0).

MANAGER' S REPORTS

The County Manager reported on the following:

Board Retreat:

The County Manager asked for Board input to set the dates for the annual Board of Commissioners' retreat to discuss Board priorities, stating that it is typically done in December or January.

By consensus, the Chair and Manager are to get together to set the Board retreat dates and return them to the Board.

Work Sessions:

The County Manager explained that work sessions are typically held after the morning Board of Commissioners' meetings and in the afternoons prior to the evening meetings. He asked if the Board wished to continue to have these work sessions.

Commissioner Morgan moved, seconded by Commissioner Pollard, to hold a work session after the regular meeting on January 6, 2003. The motion carried five (5) to zero (0).

Update on Ice Storm Damage:

Tony Tucker, Emergency Operations Director, gave an update on the restoration of power service by CP&L to the remaining customers in Chatham County as of the afternoon. He explained that two hundred additional employees were expected in the County by the next day bringing the total to over 550 total employees; that there are still over fifty broken power poles and 750 spans of wire still down; that the shelters have been down graded to one shelter (the Council on Aging) as of the afternoon; that they requested and received five teams of National Guardsmen who went door-to-door asking what residents needed; that there

were nine chainsaw crews working through the Forestry Service; that he and a couple of staff went to Moore County to meet with FEMA members to get basic information on what to expect; and that they will be coming the next two days to look at damage in the County.

Commissioner Emerson asked that the Emergency Operations Director remember that there has been tremendous damage to the timber people in the County; that pine forests have been badly damaged; that a lot of it is corporate timber, but most of the timberland is privately owned by the average farmer; and that he would like attention given in this area.

Mr. Tucker recognized the Volunteer Fire Departments, stating that they had done a tremendous job. He stated that the County went into a County-wide State of Emergency on Thursday, 12:00 noon, and will remain in it until which time the Board sees fit to end it.

COMMISSIONERS' REPORTS

2025 Long Range Transportation Plan:

Commissioner Pollard reviewed the draft Chatham County Recommended 2025 Long Range Transportation Plan stating that there is going to be a public hearing held on Wednesday, December 11, 2002; that at the most recent meeting, the Board talked about having the bike lanes continue through Chatham County; that they are specified in the plan as Items #3, #74, #36, and #25. She asked for support from the Board regarding this matter.

Commissioner Pollard moved, seconded by Commissioner Morgan, to support the recommendation in the Long Range Transportation Plan.

Commissioner Atwater moved, seconded by Commissioner Outz, that the motion be amended to include a courtesy review by Mayor May. The motion carried five (5) to zero (0).

The motion to support the recommendation in the Long Range Transportation Plan carried five (5) to zero (0). A copy of the draft plan is attached hereto and by reference made a part hereof.

Water Board Meeting:

Commissioner Outz stated that the Water Board asked to get on the Agenda for the upcoming January Board of Commissioners' work session.

Sports Arena:

Commissioner Outz asked if Mr. Ward had left a tape to be reviewed with regard to the North Carolina Sports Arena.

The County Manager explained that there have been two tapes left for Board review, one from Mr. Ward and the other from citizens.

Water Connections:

Commissioner Outz asked that a small map be provided of water connections within the County.

The County Manager stated that this would be part of the upcoming work session on January 6, 2003.

NC Sports Arena Video Tapes:

Commissioner Morgan asked if the new Sheriff had had an opportunity to review the North Carolina Sports Arena video tapes.

The County Manager stated that he would contact him about them.

CLOSED SESSION

Commissioner Pollard moved, seconded by Commissioner Morgan, to go out of Regular Session and into Closed Session for the purpose of discussing possible litigation regarding S.T. Wooten v. Chatham County. The motion carried five (5) to zero (0).

Attorney Gunn described to the Board members the details of the two lawsuits between S.T. Wooten and the County.

Various Board members asked questions concerning the likelihood of winning either lawsuit. Attorney Gunn responded with a report of his conversations with David Owens, Land Use Expert, at the Institute of Government and a report of related case law. He explained that the likelihood of the County winning the litigation should it choose to pursue it is not good.

Board members indicated their interest in conducting a discussion of the legal issues in open session in order for the public to have a better understanding of the decision the Board must make. Attorney Gunn responded that as counsel he would prefer a discussion of the two cases in closed session with the understanding that the Board could choose to make public the minutes of the closed session after he had reported on the outcome of any settlement negotiations the Board might authorize.

Attorney Gunn proceeded to describe the terms of a settlement that he believed S.T. Wooten would consider on both suits. As to the suit challenging the amendment to the zoning ordinance which removed the requirement of a quasi-judicial determination when considering applications related to nonconforming uses, he advised that in his opinion the Board's amendment could not be successfully defended and that S.T. Wooten was not willing to negotiate on that point and would require that any settlement result in a declaration of the Board's amendment to be invalid.

As to the suit challenging the moratorium on continuation of nonconforming uses due to the lack of a public hearing, he advised that S.T. Wooten would consider settling the suit with the following terms:

- 1) S.T. Wooten would agree to provide parking improvements for vehicles waiting to enter the facility.
- 2) S.T. Wooten would agree to limit its production of asphalt at the facility to the amount that its current plant is permitted for. (395,000 tons per year)
- 3) S.T. Wooten would agree to cooperate with the County in its efforts to request that NC DOT consider the possibility of installing appropriate traffic control devices at the intersection of Sugar Lake Road and Mt. Gilead Church Road.
- 4) S.T. Wooten would waive any present or future right to recover damages or costs from the County arising out of the subject matter of either of these two suits.

Commissioner Morgan moved, seconded by Commissioner Outz, to give the County Attorney instructions to proceed with negotiations and settlement along the lines discussed above. The motion carried

four (4) to one (1) with Commissioner Atwater dissenting.

Commissioner Morgan moved seconded by Commissioner Pollard, to instruct the County Attorney to make any settlement reached available to the public after filing of the consent judgment with the court. The motion carried five (5) to zero (0).

REGULAR SESSION

Commissioner Morgan moved, seconded by Commissioner Pollard, to go out of Closed Session and reconvene in Regular Session. The motion carried five (5) to zero (0).

PERSONNEL

The County Manager reminded the Board of the County's history consistent with its adopted policies of paying exempt and nonexempt employees for time logged during adverse weather circumstances and overtime. He reported that paying employees consistent with these policies during the adverse weather conditions of Thus through Sunday would cost the County around \$90,000. This estimate included costs incurred through the end of the day Sunday.

The Assistant County Manager advised that a portion of this expenditure may be reimbursable but only if the State is successful in its efforts to secure a Federal Disaster Declaration.

The County Manager pointed out that the severity of the event may equal Hurricane Fran given the amount of debris, the length of the power outage, and the Counties continuing efforts, even as he spoke, to keep shelters open for those who still do not have power.

The Assistant County Manager then explained to the Board that staff's recommendation for compensating employees deviates in one important way from the County's history of compensation during adverse weather. Staff is recommending that the Board allow additional compensation for workers involved in the staffing of shelters beyond the County's existing disaster compensation policies. Such compensation would result in 1.5 hours of pay for every hour spent in a shelter regardless of the number of hours worked and regardless of the employee's status as exempt or nonexempt.

The County Manager explained that in making adding this recommendation to the County's existing disaster compensation policies, staff hoped to increase the number of employee volunteers willing to pull shelter duty.

Commissioner Atwater thanked the County Manager and his staff for excellent service during the disaster.

Commissioner Morgan moved, seconded by Commissioner Pollard, to support staff's recommendation for disaster compensation of employees. The motion carried five (5) to zero (0).

ADJOURNMENT

Commissioner Outz moved, seconded by Commissioner Pollard, that there being no further business to come before the Board, the meeting be adjourned. The motion carried five (5) to zero (0), and the meeting

was adjourned at 9:35 PM.

Thomas J. Emerson, Chairman

ATTEST:

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