

**MINUTES
CHATHAM COUNTY BOARD OF COMMISSIONERS
WORK SESSION
OCTOBER 17, 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 3:00 PM on October 17, 2011.

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

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

Work Session

1. **Closed Session to discuss matters of attorney client privilege and economic development**
2. **Public Input Session**
3. **Courthouse Reconstruction:** Review of courthouse seating options by BOC and discussion of integrated systems work within the courtroom
4. **Advisory Committee Update & Revisions:** Vote on proposed revisions and updates related to Advisory Committee Policy
5. **Green Energy Council Presentation:** Ralph Alvalone

CALL TO ORDER

The Chairman welcomed everyone in attendance and called the Work Session to order at 3:32 PM.

PUBLIC INPUT SESSION

Dan Sears, 3601 Swann Drive, Raleigh, NC, land planner with the Village of Ferrington and representing R. B. Fitch, expressed concern regarding the collection of fees prior to the approval of a project, particularly the water fees that tend to be expensive especially at Galloway Ridge or Ferrington Village. He stated that they are a great burden on large and small developers alike. All other counties and municipalities in which they work collect the fees either after the plans are approved or some of the fees at the point of occupancy. He stated that he feels it is a fair request for the Board of Commissioners to consider making building in the County a little easier and more fair to the developer.

Alan Keith, 5428 Den Heider Way, Raleigh, NC, on behalf of the Village of Ferrington, stated that they had concerns regarding the status of the current Stormwater Ordinance in the County. Knowing that the Jordan Lake Rules are in the process of being

implemented, and are eminent from what they understand, it should be fully in place about a year from now. The current County ordinance has a provision for quantity and quality aspects. It will have to be modified when the nutrient portion of the Jordan Lake Rules takes effect. He stated that they are in a regulatory “gray” area, particularly for the County Staff, as far as what is there now versus what will have to be in a year. He stated that they are asking for consideration for scaling back to wait for the Jordan Lake Rules until they are fully implemented rather than be in between them.

He stated that the other aspect of the Stormwater Ordinance and Watershed Ordinance has to do with ephemeral streams. By buffering ephemeral streams, a lot of times it takes away a very good site for Best Management Practices (BMP) for stormwater management. It makes that job more difficult, water runs downhill to the best place to put the BMP. By not being able to utilize the ephemerals, you have to disturb more open up-land for the devices which causes you to disturb more land than you would if you took into account the natural drainage. He asked that the Board please consider those points.

Kevin Martin, 176 Juniper Trail, Franklinton, NC, environmental consultant, encouraged the Board to make changes to the current Watershed Ordinance. He stated that there are some substantial problems with the application of the criteria in the field due to some vague definitions. It is especially true of the term “seeps and springs”. The definitions are vague and inconsistent with State definitions for seeps. There is no reference to normal rainfall or seasonal conditions. After a high rainfall event or hurricane, many of the areas will meet the criteria, but during a drought, they would not meet the criteria even though they would still be a jurisdictional well. That is why the Corps and DWQ steer away from using the presence of water and rely on hydric soils and hydrologic indicators. As currently written, the Ordinance regulates anything that temporarily places water above the slowly permeable clays present in Chatham County. Certain times of the year, that could be just about anything. The determinations are not reproducible year round in various moisture conditions and it is dangerously close to being arbitrary and capricious. The County should change the Ordinance such that only “seeps and springs” that are jurisdictional waters of the United States regulated by the Army Corps of Engineers or that meet the State definition of intermittent or perennial streams would be buffered. The State hasn’t found the need to buffer ephemeral channels, seeps or springs in any other watershed in the State and they have not developed a score to even determine what an ephemeral stream is. The County’s use of the State’s system is inappropriate for that. Better yet, the County should just remove the requirement to buffer ephemeral streams completely. The drainages in ephemeral streams could better be used to protect water quality by allowing for the location of stormwater BMP’s within them. Preventing other uses results in unnecessary increase in urban sprawl and allowing BMP’s and drainages will limit the number of BMP’s and therefore potential limit the total disturbed area within a development. Since water runs downhill, that is where the BMP’s need to be. With the coming Jordan Lake Stormwater requirements, the ordinance will need to be changed so that they can be placed there when appropriate. The ephemeral streams have no to little aquatic life function so it is not justified to buffer them in the first place.

Brian Sawyer, 30024 Village Park Drive, Chapel Hill, NC, asked that the Commissioners look at the current impact fee that builders are required to pay. He stated that everyone is aware of the importance of the impact fee; however, they are wanting to have the impact fee collected at the end of the building process rather than at the beginning when they obtain their permit.

Chairman Bock asked when Mr. Sawyer was asking that the fee be collected.

Mr. Sawyer stated prior to the issuance of the Certificate of Occupancy or the electric meter being set.

Dan Walsh, 111 Mountain Heather, Chapel Hill, NC, stated that he too wished to speak about the impact fee being paid at the end of the process. He stated that there are several ways to avoid someone moving into a house without the impact fee being paid. When someone goes for the final inspection, you have to sometimes pay fees for failures on

inspections. At the same time, you could pay the \$3,500 impact fee. If it became a further issue, you could have it incorporated into the HUD Statement so that when the money is separated, the County would automatically get their money. The banks do not finance the impact fee, so it is out of pocket for all the builders.

Chuck Lewis, 52 Bluejay Court, Pittsboro, NC, stated that he had been building in Chatham County a long time and was supportive of the impact fees as he realized it was a good way to fund new school construction. Over the years, it has been a burden to not only put the money out front, but if you are building it on the “bank’s dime”, you pay interest on that money. It would be just as easy for it to be collected at the issuance of the Certificate of Occupancy. The banks, mortgage companies, and insurance companies, before they issue a policy, want to see the Certificate of Occupancy.

Judy Harrelson, 812 East Third Street, Siler City, NC, presented her comments to the Board and provided them in their entirety for the record as follows:

“Thank you for the opportunity to speak. We are GC’s and request that impact fees be required to be paid at the end of the construction project rather than at the beginning.

Although we don’t do spec homes, we do custom building for clients. The banks are getting tighter with money and releasing it more slowly. We need the bank funds for cash flow for our contractors at the start of the job. The working capital is most crucial at the beginning because you have to buy materials way before any inspections are done. Until inspections are completed, reimbursement cannot be re requested from the bank draw.

Keeping the project moving with sufficient funding to cover the upfront material costs and sub-contractors is crucial for a quality job, smooth flowing project and a happy customer.

We would request impact fees be required for payment at the conclusion of the project, basically right before C.O. when the bank releases the final draws and at that time there is sufficient funding to cover all fees and permits.

Thank you for your consideration.”

Commissioner Kost stated that last year the Board was ready to do what was asked, to move the fee to either the electric meter or further along in the process. The holdup was one of a technical nature because most of the revenue now is being generated by building that is happening in the Town of Cary within Chatham County. There was an issue and Cary had a problem with doing this because of the way they collect their fees which are collected up-front. She stated that she doesn’t think it is insurmountable and thinks it can be worked out. She stated that was what kept the Board of Commissioners from doing it a year ago.

Frank Thomas, Homebuilders Association of Durham, Orange, and Chatham Counties, stated that he feels the appropriate answer to that is if you phrase the new ordinance language so that the impact fee is paid at or before the power meter is installed, then Cary can collect it anytime they want before that point in the process.

Commissioner Kost stated that they offered some other options, but that was the issue. It was because they collect all their other fees up-front.

Chairman Bock asked that in the case of a mobile home park, how the fees would be collected.

Mr. Thomas explained that a manufactured home would be grandfathered because the impact fee has already been paid when the lot was created if it was created during the period which the ordinance existed or it is grandfathered because it was an existing lot prior to the beginning of charging the fee. Unless it is a new lot, there wouldn’t be an impact fee on a mobile home lot unless it has been unoccupied for some length of time.

Chairman Bock stated they would like to find a way to ease the burden. If there I a way to make it easier, cost-wise, that is something they have been trying to do. He stated that the Board would look into it in more depth and will get back to them as soon as feasibly possible.

Commissioner Kost stated that she thinks it is critical that they look at it now as opposed to later for a number of reasons: 1) To help the builders; 2) We have a large balance now of impact fees. We have a debt model that pulls the money down. If the change is made now, it has no impact on cash flow. The money is in the bank. We could do it now without impacting anything as opposed to waiting and the money gets tighter because we are paying the debt service from that fund and we need the money, we wouldn't be in a position where we could do it.

Mr. Thomas stated that in talking to most of his builders, this is consistently the top issue for them.

Chairman Bock stated they are all behind this. If they do it at the CO, the night before someone wants to move into their house, they don't have their CO, it could be because the builder ran out of money or is not paying for whatever reason. The County would be blamed.

Mr. Thomas stated that Orange County has never had this happen; that they have had people come in and say it, but when they realize that the argument wasn't going to get them a discount on their impact fee, the money mysteriously shows up and it gets paid.

Chairman Bock asked how long they have been doing it this way. Commissioner Kost stated not from the inception, as she remembers when it was originally done and it was at the beginning of the process.

COURTHOUSE RECONSTRUCTION

Chairman Bock explained that at the last meeting, most of the items were approved. There was approximately \$32,000 that was set aside to review the seating options which would be movable or bench/pew type seats.

Grimsley Hobbs, Architect, reviewed the Chatham County Historic Courthouse seating options and the integrated systems work within the courtroom.

Mr. Hobbs stated that there was concern about the stability if the furniture was not fixed and they have to be built in such a way that they will interlock so they stay in straight lines. The issue, as they see it, is if you have benches that can be moved, is storage. The building does not have a lot of storage space.

David Hughes, Public Works Director, stated that a couple of other issues would be the manpower of breaking the seats down and dealing with them from a facilities point-of-view. Also, the wear-and-tear on the furniture is problematic as they are repeatedly moved. He stated that the movable chairs do not have the import that a fixed bench has.

A discussion ensued with regard to bench-type seating versus movable chairs.

Commissioner Cross asked what the final recommendation of the committee that studied this issue. Mr. Hughes stated that they recommended fixed seating.

Commissioner Petty moved, seconded by Commissioner Cross, to proceed with the contract as proposed for bench seating. The motion carried three (3) to two (2) with Commissioners Kost and Stewart opposing.

Mr. Hobbs explained that he had spoken with the contractor today stating that they would have their insurance and other documents together and should have them back to them

by the middle of the week. They will probably schedule a pre-construction meeting sometime next week. The estimated completion date is thirteen months from November 1st.

ADVISORY COMMITTEE UPDATE AND REVISIONS

Debra Henzey, Director of Community Relations, stated that the Chatham County Board of Commissioners adopted a new Advisory Committee Policy and Addendums on June 6, 2011 that provides consistent policies and procedures for several county-created volunteer advisory committees. The policy was amended on September 19, 2011 to remove the Grand Trees of Chatham from being under the policy. However, one item still needs clarification and was not approved on a 2-2 vote. We have tried to more clearly state the proposed change related to individuals serving on more than one commissioner appointed board or committee.

The original policy made it clear that individuals could not serve on more than one advisory committee under the policy, but it was not clear how this service related to other Commissioner-appointed volunteer boards, committees or commissions.

This change would NOT impact anyone serving on any number of committees, boards or commissions in seats appointed by the Board of Commissioners **UNLESS one of these is an advisory committee under this policy.** The conflict only kicks in if they serve on an advisory committee(s) under this policy. In that case and only in that case, they have to make a choice between staying on or accepting an appointment to the advisory committee or giving up their seat(s) on other boards, committees or commissions. If they decide to give up their advisory committee seat, they can retain their seat on one or more other volunteer entities that are NOT under this policy.

At this time, the only remaining individuals impacted by this change are:

- Linda Harris (serves on Agriculture Advisory Committee but term has expired and Economic Development Corporation Board)
- Herbert Gaines (serves on Agriculture Advisory Committee but term has expired and Board of Equalization and Review)

NOTE: Lin Andrew must also make a choice because she is still serving on an expired seat for Agriculture Advisory Committee and the Environmental Review Advisory Committee. Her conflict is serving on TWO advisory committees under the policy. We have contacted her to make a choice about which one she wishes to serve on.

Commissioner Petty moved, seconded by Commissioner Stewart, to adopt the policy as amended. The motion carried three (3) to two (2) with Commissioners Kost and Cross opposing.

BREAK

The Chairman called for a short break.

GREEN ENERGY COUNCIL PRESENTATION

Ralph Alvalone, Secretary General of the International Green Energy Council, showed a video of Siler City from the year 1963. He presented a PowerPoint and shared statistics with regard to Chatham County.

Mr. Alvalone completed his presentation by stating that you cannot create a master plan for development for the future; you cannot woo green technology companies and their investment to come to Chatham County unless you agree to do what your forefathers did for Siler City and that is create the right environment. These companies are not coming asking the County to put up 50% of the dollars. They are saying they need the County to do some footwork for them. A lot of the companies are being wooed by companies all over North

America. It is Chatham County's job to say "We did it. We created a master plan. Here is our green research and development zone. Here are redevelopment zones along active rail spurs. This is how much square footage this building has. This is how much we anticipate your electric bill to be for basic operations. This is the amount of work force that we believe that we can train through the community college network if given the right curriculums."

Commissioner Petty expressed appreciation, on behalf of the Board, for Mr. Alvalone's presentation.

ADJOURNMENT

Commissioner Kost moved, seconded by Commissioner Stewart, to adjourn the meeting. The motion carried five (5) to zero (0), and the meeting was adjourned at 5:29 PM.

Brian Bock, Chairman

ATTEST:

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