

MINUTES
CHATHAM COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING
MARCH 17, 2003

The Board of Commissioners ("the Board") of the County of Chatham, North Carolina, met in the District Courtroom, located in Pittsboro, North Carolina, at 6:00 PM on March 17, 2003.

Present: Chairman Tommy Emerson; Vice Chair Carl Outz; Commissioners Margaret Pollard 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

Absent: Commissioner Bob Atwater

The meeting was called to order by the Chairman at 6:04 PM.

PLEDGE OF ALLEGIANCE AND INVOCATION

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

Chairman Emerson announced that Commissioner Atwater would not be at the meeting due to sickness in his family.

AGENDA

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

Commissioner Pollard moved, seconded by Commissioner Morgan, to approve the Agenda. The motion carried four (4) to zero (0).

CONSENT AGENDA

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

Commissioner Morgan asked that the February 3, 2003 Board of Commissioners' Minutes be removed from the Consent Agenda and placed on the Regular Agenda for discussion after the Public Input Session.

The County Manager asked that Item #17, Fiscal Year 2002-2003 Budget Amendments and Item #19, Resolution for the North Carolina Department of Transportation and the County of Chatham to Enter into a Lease Agreement for Interim Use of an Inactive Railroad Corridor in Chatham County (American Tobacco Trail), be removed from the Consent Agenda and placed on the Regular Agenda for discussion after the Public Input Session; and that Item #20, Sketch and Preliminary Approval of "Major Subdivision, Phase 2, Map for Joseph Lon Griffin" be deferred until a later date.

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

1. ~~**Minutes:** Consideration of a request for approval of Board Minutes for meeting held February 03, 2003~~

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

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

The motion carried four (4) to zero (0).

3. **Road Names:** Consideration of a request to approve a request from citizens for the naming of private roads in Chatham County as follows:

- | | | | |
|----|------------------------|----|----------------------------|
| A. | MaSosa Gonzalez | C. | Todd Lane |
| B. | Elizabeth Lane | D. | Laura Margaret Lane |

The motion carried four (4) to zero (0).

4. **Reclassification of Health Department Position:** Consideration of a request to reclassify an Administrative Assistant II position to a Processing Assistant IV position in the Chatham County Health Department and to make the position 50% time and reallocate the remaining 50% to another position in the Health Department

The motion carried four (4) to zero (0).

5. **Funds Acceptance for Expansion of Health Chatham:** Consideration of a request to accept funds in the amount of \$999 awarded to the Health Department from the Kate B. Reynolds Charitable Trust for expansion of Healthy Chatham

The motion carried four (4) to zero (0).

6. **Funds Acceptance for Temporary Animal Care for Lee County:** Consideration of a request to accept funds in the amount of \$7,580 for the Health Department to continue providing temporary animal care for Lee County through March 2003

The motion carried four (4) to zero (0).

7. **Funds Acceptance for Adolescent Parenting Program:** Consideration of a request to accept donation funds in the amount of \$800.00 for the Health Department's Adolescent Parenting Program

The motion carried four (4) to zero (0).

8. **Funds Acceptance for Hepatitis B Vaccinations:** Consideration of a request to accept funds in the amount of \$3,566.40 from the Department of Health & Human Services (DHHS) to reimburse the Health Department for Hepatitis B vaccinations given to sixth grade students

The motion carried four (4) to zero (0).

9. **Funds Acceptance for Vaccinations for Everyone Project:** Consideration of a request to accept funds in the amount of \$6,000 presented to the Health Department by the Family Resource Center from GlaxoSmithKline for the Vaccinations for Everyone Project

The motion carried four (4) to zero (0).

10. **Funds Acceptance for Bioterrorism Communications and Assessment:** Consideration of a request to accept funds in the amount of \$4,300 for Bioterrorism Communications and Assessment from the NC Division of Public Health awarded to the Health Department

The motion carried four (4) to zero (0).

11. **Funds Acceptance for Animal Control Division of the Health Department:** Consideration of a request to accept funds in the amount of \$1,097 from donations for the Animal Control Division of the Health Department

The motion carried four (4) to zero (0).

12. **Funds Acceptance for Environmental Health Division:** Consideration of a request to accept additional funds in the amount of \$3,470.36 from the NC Department of Environment and Natural Resources awarded to the Environmental Health Division of the Health Department

The motion carried four (4) to zero (0).

13. **Funds Acceptance from Susan G. Komen Breast Cancer Foundation:** Consideration of a request to accept grant funds in the amount of \$30,750.00 awarded to the Health Department by the Susan G. Komen Breast Cancer Foundation

The motion carried four (4) to zero (0).

14. **Funds Acceptance for Teen Tobacco Use Prevention and Cessation:** Consideration of a request to accept funds in the amount of \$219,046 in Teen Tobacco Use Prevention and Cessation grant funds awarded to the Health Department from the State of North Carolina Health & Wellness Trust Fund Commission

Consideration of a request to create a new Health Educator position utilizing the Teen Tobacco Use Prevention and Cessation grant funds

The motion carried four (4) to zero (0).

15. **Funds Acceptance from State's Bioterrorism Steering Committee:** Consideration of a request to accept funds in the amount of \$34,000 from the State's Bioterrorism Steering Committee awarded to the Health Department

Consideration to approve reallocation of .5 full-time-employee Public Health Nurse I position from Community Health Promotion & Advocacy Division to Preventive Health Division as a 1.0 full-time-employee Public Health Nurse II for public health preparedness

The motion carried four (4) to zero (0).

16. **Reclassification of Waste Management Equipment Maintenance Specialist Position:** Consideration of a request to reclassify a Waste Management Equipment Maintenance Specialist to a Heavy Equipment Operator position in the Chatham County Public Works Department

The motion carried four (4) to zero (0).

- ~~17. **Fiscal Year 2002-2003 Budget Amendments:** Consideration of a request to approve Fiscal Year 2002-2003 budget amendments~~

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

18. **Refunds on 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 four (4) to zero (0).

- ~~19. **Resolution for the North Carolina Department of Transportation and the County of Chatham to Enter into a Lease Agreement for Interim Use of an Inactive Railroad Corridor in Chatham County (American Tobacco Trail)**~~

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

- ~~20. **Sketch and Preliminary Approval of "Major Subdivision, Phase 2, Map for Joseph Lon Griffin":** Consideration of a request by Joseph Lon Griffin for subdivision sketch and preliminary approval of "Major Subdivision, Phase 2, Map for Joseph Lon Griffin", consisting of 2 lots, Lots 5 and 6, on approximately 11 acres, off SR #2215, Minow Johnson Road, in Oakland Township~~

This item was deferred until a later date.

21. **Time Warner Cable Rate Filings:** Consideration of a request to approve Time Warner Cable's 2003 Rate Filings, attached hereto and by reference made a part hereof.

The motion carried four (4) to zero (0).

END OF CONSENT AGENDA

PUBLIC INPUT SESSION

There was no one in attendance who wished to make public comments.

FINANCE OFFICE

Fiscal Year 2002-2003 Budget Amendments: Consideration of a request to approve Fiscal Year

2002-2003 budget amendments

After an explanation of each individual budget amendment by the Finance Officer, Commissioner Pollard moved, seconded by Commissioner Outz, to approve Fiscal Year 2002-2003 budget amendments, attached hereto and by reference made a part hereof. The motion carried four (4) to zero (0).

NC DEPARTMENT OF TRANSPORTATION – AMERICAN TOBACCO TRAIL**Resolution for the North Carolina Department of Transportation and the County of Chatham to Enter into a Lease Agreement for Interim Use of an Inactive Railroad Corridor in Chatham County (American Tobacco Trail)**

The County Manager and Recreation Director explained the purpose of the lease agreement of the American Tobacco Trail. Ms. Burnett explained that by signing the lease, it will not obligate the County in any financial situation, but will open the door for the pursuit of funding.

After further discussion, Commissioner Pollard moved, seconded by Commissioner Outz, to adopt **Resolution #2003-03 for the North Carolina Department of Transportation and the County of Chatham to Enter into a Lease Agreement for Interim Use of an Inactive Railroad Corridor in Chatham County (American Tobacco Trail)** that the lease be approved to include the contingency that it will not obligate the County in any financial way and that the County will not pursue any grants that require matching funds. The motion carried four (4) to zero (0). The resolution is attached hereto and by reference made a part hereof.

Note: See April 7, 2003 Board of Commissioners' Minutes for motion amendment.

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FEBRUARY 3, 2003 MINUTES

Commissioner Morgan asked that the minutes of the February 3, 2003 Board of Commissioners meeting be changed to reflect the following:

SHERIFF'S OFFICE**Reclassification of Four Positions and Creation of One Position in Sheriff's Office:**

Consideration of two requests for the Sheriff's Office: 1) Reclassification of four (4) positions; and 2) Creation of a lieutenant position

Commissioner Outz stated that he did not have the opportunity to oppose the above motion and asked that the vote be corrected to accurately reflect his position which was to deny the request.

Commissioner Atwater moved, seconded by Commissioner Pollard, to approve the creation of a Lieutenant position (Administrative Officer), Grade 19. ~~The motion carried five (5) to zero (0).~~ The motion carried four (4) to one (1) with Commissioner Outz dissenting.

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Commissioner Pollard moved, seconded by Commissioner Outz, to change the vote on the above motion to reflect a four (4) to one (1) vote with Commissioner Outz dissenting. The motion carried four (4) to zero (0).

SOUTHEAST CHATHAM CITIZEN'S ADVISORY COUNCIL

- **Southeast Chatham Citizen's Advisory Council:** Presentation by the Southeast Chatham Citizen's Advisory Council on a regional landfill in the Moncure area

Mr. Mike Cross offered comments related to Moncure air quality and the possibility of siting a landfill in the southeastern portion of Chatham County. He stated that this area is already polluted; that the air and water quality need immediate corrective action; that they would like some resolve to the solid waste landfill; that the traffic would bring a tremendous influx of diesel emissions to the area; that this area and this County do a better job of recycling and environmental consciousness; and that they respectfully ask for the Board's assistance in stopping the siting of any regional landfill in Chatham County. He asked that a resolution be adopted that would prohibit the possibility of a landfill in Chatham County.

PLANNING AND ZONING - ZONING BOARD OF ADJUSTMENT

- Commissioner Morgan moved, seconded by Commissioner Outz, to recess as the Board of Commissioners and convene as the Board of Adjustment. The motion carried four (4) to zero (0).

The Chairman reviewed Zoning Board of Adjustment procedures with the County Attorney, Bob Gunn and Robert Maitland, Attorney for Danny and Patricia McDaniel.

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

Public Hearing on Request by Danny McDaniel to Appeal Zoning Enforcement Officer Actions: Public hearing by the Zoning Board of Adjustment to receive public comments on a request by Danny and Patricia McDaniel to appeal enforcement actions of the Zoning Enforcement Officer. The request concerns the violation of the RA-40 Zoning District by operating a wood splitting business.

Robert Maitland, 214 West Cameron Avenue, PO Box 2525, Chapel Hill, NC, attorney for Danny and Patricia McDaniel, indicated that the Millers purchased property adjacent to the McDaniels; that in December, 2001, problems began when the McDaniels' son moved onto the rear of the property; that when the property was inspected for compliance with the County's codes at the request of Mr. Miller, all was found to be in compliance with the McDaniel's property; that the Code Enforcement Officer found, however, that the Millers had violations related to the location of a fence that was intruding within a required setback; that on a second visit at the request of the Millers, months after the initial visit, the Code Enforcement Officer found Mr. McDaniel's wood-splitting business to be in violation of the zoning code; that Mr. McDaniel has since offered to construct a fence between his property and Mr. Miller's property; and that Mr. Miller has indicated that he would no longer complain about the wood-splitting business if the fence was erected;

Billy Miller, 91 Sparrow Woods Land, Pittsboro, NC, next testified that he would not have a problem with a wood business if the following happen: 1) Fence installation; 2) A setback of 150 feet; 3) A strategy for controlling dust

Commissioner Outz asked about the history of offenses. Mr. Miller suggested that he was first in violation with a building that was too close to a property

On a second visit, the Code Enforcement Officer found the wood-splitting visit to be in violation.

Commissioner Pollard verified with the Attorney representing the McDaniels that the use of the construction equipment is within the limits of the noise ordinance.

The Planning Director verified that Mr. Miller had formally complained of the violations to the Planning Department on specific dates.

The Attorney representing the McDaniels verified as to whether or not Mr. Miller had reported to the Planning Department the existence of contracts with the McDaniels to sell a product. Mr. Miller reported that he never mentioned contracts, but offered evidence of the sale of mulch. The Attorney stated that the sale of mulch is not why they were in attendance at the night's meeting.

The Attorney verified that Mr. McDaniel was on his property first and had located his woodpile near his property line prior to Mr. Miller moving in. The Attorney verified that Mr. Miller chose to build his home within 40 feet of the existing property line and the existing woodpile.

The Attorney asked Mr. McDaniel if he had received a letter from the Code Enforcement Officer's first visit certifying that his wood splitting operation was in compliance. He stated that he had. The Attorney asked if there was anything different with his wood splitting operation when he was cited for violation versus the first time the Code Enforcement Officer visited. The Attorney verified that on-site sales had only occurred twice in the last year. He verified that Mr. McDaniel does not advertise on-site and any on-site sales that occur are with the occasional friend that comes by to pick it up.

The Planning Director, Keith Megginson, verified that Mr. McDaniel purchases the majority of his wood from off-site and has it delivered on a tandem truck with a knuckleboom. Mr. McDaniel went on to explain that the sale of his wood happens by delivery to individuals who call and are in need of wood.

The Planning Director asked Ms. Birchett to introduce herself as the County's Zoning Enforcement Officer. She proceeded to describe her certifications.

Mr. Megginson verified that Ms. Birchett had received a complaint from Mr. Miller with regard to the wood-splitting business being located adjacent to his property. Ms. Birchett verified the subject matter of pictures she took on her visit. She reported witnessing a stockpile of logs, farming equipment, tools, landscaping equipment, and mulch piles. She reported that Mr. McDaniel was also gardening and keeping livestock and she stated that it was her decision that the property was in compliance with the permitted uses in Agricultural Zoning.

Ms. Birchett reported that Mr. Miller called again and reported the existence of contracts where Mr. McDaniel was purchasing a product, turning it into a new product, and making a profit. She reported that she questioned other jurisdictions, researched the issue given that Chatham had never experienced this issue before; that her January findings were different because on her first visit in July all she saw was a stack of logs sitting on the property; that in January she witnessed that the logs had been processed, cut up, and moved; that she had had a conversation with Mr. McDaniel describing the business; that she determined that the activity could not be permitted in a residential zoning district; that she determined that it was not a home occupation because it had an effect beyond what is normally accepted in a residential neighborhood; and that she determined it would be a permitted use in a light industrial district.

The Chairman made a distinction between the existing activity and a circumstance where the property owner was permitted to cut down his own timber and sell it as an agricultural product.

Ms. Birchett pointed out that such an activity would be permitted.

The Attorney representing the McDaniels pointed out the only difference between the operation from her first visit to her second visit was the evidence of the retail sales (2 to 3 during an ice storm) and the

evidence of contracts to accept wood.

The Attorney asked if Ms. Birchett knew of authority the Board has to approve this activity as an exception to the ordinance. Attorney Gunn objected that the question calls for a legal conclusion and the witness should not answer the question.

The Attorney asked if the Board found that the evidence of contracting and retail sales was not sufficient, could her finding not be overturned given that this was the evidence she used to cite the property owner. The Planning Director responded that the only question of the night was whether or not the Code Enforcement Officer took the correct action.

The Attorney agreed but maintained that nothing changed in the six months between the first visit and the second visit. He asked if she had contact with the Millers other than the contact where she learned of the supposed contracts and commercial activity. He asked if threatening language from Mr. Miller towards Ms. Birchett occurred. She responded that the events were not material to the issue. The County Attorney advised likewise.

The Attorney, in closing, maintained the only thing that changed between the two visits was a few retail transactions during an ice storm, the indication to Ms. Birchett that contracts existed, and the hostile tactics that Mr. Miller used towards the Planning Department staff. He pointed out that Mr. Miller had tonight denied any assertion that he may have made to Ms. Birchett that contracts existed.

The Chairman summarized that was the Board's responsibility to agree on findings of fact either at the night's meeting or at a later meeting and determined whether or not the Planning Board acted correctly.

Commissioner Pollard moved to support the decision of the Planning Department. The County Attorney interrupted that the Board would need to make findings of fact. He stated that normally the Board would do this at the same time it renders its decision.

The Chairman asked the Attorney to read aloud findings of fact that had been prepared by the Planning Department at which time the County Attorney complied with the request. He pointed out that the Board could determine for itself whether or not the findings of fact were accurate and specific to the subject of contracts existing to receive the wood. He pointed out that such a contract could be oral or written.

He asked the Board to determine if there is evidence to support the findings of fact stating that if it does so, it would rule that the property is in violation of the Zoning Ordinance and that it should be brought into compliance. He stated that the Board could also rule that there is not evidence sufficient to justify the interpretation of the Zoning Enforcement Officer and that the operation is in compliance with the zoning code.

Commissioner Outz asked the County Attorney if the sales during the ice storm threw them out of compliance initially. The County Attorney answered that the question of whether or not the operation is more similar to a light industrial district is broader than just that of sales. The County Manager pointed out that the transition of a raw product to a finished product is also a consideration in whether or not an operation is consistent with a light industrial use.

The Attorney for the McDaniels pointed out that the facts the Code Enforcement Officer relied on in citing his client have not been proven to be true. He suggested the Board of Commissioners has a responsibility to determine whether or not the evidence supports the Planning Department's conclusion.

The County Attorney advised that 80 percent of the Board must vote to overturn the Department's decision. The Chairman asked that the absent member of the Board be provided with the transcript of the proceedings so that he may participate in the decision.

Commissioner Pollard withdrew her motion.

Commissioner Morgan moved to defer the issue until a later date. Commissioner Outz seconded. The motion carried four (4) to zero (0).

BOARD OF COMMISSIONERS

Commissioner Morgan moved to recess as the Board of Adjustment and reconvene as the Board of Commissioners. The motion carried four (4) to zero (0).

BREAK

Chairman Emerson called for a five-minute break.

Other Public Hearing Items:

Public Hearing on Request to Amend the Chatham County Subdivision Regulations: Public hearing to receive public comments on a request to consider a proposal to amend the Chatham County Subdivision Regulations Section 4.7A. so that the Planning Board has 65 days and the Board of County Commissioners has 45 days for review of sketch subdivision plats

There was no one present who wished to speak on this issue.

Public Hearing on Proposal to Amend the Chatham County Zoning Ordinance: Public hearing to receive public comments on a request to consider a proposal to amend the Chatham County Zoning Ordinance Section 17.6 and Section 17.7 so that the Planning Department has two regular meetings following a public hearing to make a recommendation to the Planning Board and that the Planning Board does not have to start their review until after receiving said recommendation.

There was no one present who wished to speak on this issue.

Testimony was required to be given under oath for the following:

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

Public Hearing on Request by Carolina Waterscapes for Revision to Existing B-1 Conditional Use Business District: Public hearing to receive public comments on a request by Carolina Waterscapes for revision to their existing B-1 Conditional Use Business District with a Conditional Use Permit for a landscape design business and a lawn and garden shop to include food stores, retail, specifically for retail sales of specialty coffee and baked goods, on approximately three (3) acres, off SR #1008, Mt. Carmel Church Road, in Williams Township

Lauren Fitts, 1815 Billabong, Chapel Hill, NC, stated that she is co-owner of Carolina Waterscapes; that they wish to add to their existing conditional use permit; and that the inclusion of food stores specifically for retail sales of specialty coffee and baked goods would substantially add to their business

Public Hearing on Colvard Farms Development Company Request for Revision to Existing Conditional Use Permit for Planned Unit Development: Public hearing to receive public comments on a request by Jeff Hunter on behalf of Colvard Farms Development Company, LLC, for a revision to the existing Conditional Use Permit for a Planned Unit Development for a cluster subdivision to include a tennis and recreation club [private facility], consisting of 107 lots on approximately 300 acres, located in Williams Township, off NC Highway #751

Jeff Hunter, 9310 NC Highway #751, Durham, NC, representing Colvard Farms, requested an amendment to the Colvard Farms Conditional Use Permit to allow for a recreation facility previously planned for Durham County to be constructed in Chatham County. He stated that the Durham County Planning Department stated that the water situation eliminated the possibility of the recreation center in Durham County; that they wish to relocate that center in Chatham County; that it is a private facility for the use of the residents of the community

Commissioner Morgan asked if the Developer would lose home sites. The representative answered they have made the lots smaller. Commissioner Morgan asked if the developer's number of units per acre complies with the ordinance. The Planning Director answered in the affirmative.

Public Hearing on Annual Review of Communication Tower Plan Requests: Public hearing to receive public comments on a request to review the Annual 2003 Communication Tower Plan Requests: ALLTEL Communications requests three co-locations and one tower height extension; Cingular Wireless requests two co-locations and one new tower site; AT&T Wireless Services PCS requests eleven co-locations and one new tower.

Cingular Wireless appeared before the Board to present its wireless coverage plans for the year. The representative mentioned the need to improve the highway corridor coverage from Siler City to the County line along Highway #421. He stated that Cingular proposes to meet this demand by developing one new site along Highway #421, and pointed out that Cingular has identified two existing towers it might use to co-locate as the ordinance requires. He proceeded, however, to demonstrate that locating on an existing tower or towers does not accomplish the technical coverage needs for supporting a call continuously with the secondary goal of providing residential coverage to people within Bear Creek.

Commissioner Morgan asked if locating a tower closer to Hwy #902 might minimize future towers. The Cingular representative responded that he was unsure, but the primary goal of providing uninterrupted highway service along Highway #421 can only be served with a new tower on Highway #421. He continued to explain that Cingular made its calculations of coverage based on the highest available heights.

AT&T's representative appeared before the Board to discuss its search ring needs as part of its larger plan to achieve twelve new transmission facilities in Chatham County. He stated that it is co-locating on eleven facilities and needs to construct one new tower in the Gabe Bryant Road area. He stated that no other carrier exists in the area and AT&T will make the tower available to other users as required; and that there are no feasible locations within the search ring to accomplish the co-locations.

Alltel Communications represented that their plans for 2003 involve only co-locations. They are requesting permission to improve the height of one tower along Hwy 15-501 that was originally used as an old guide tower.

Public Hearing on Land Use Plan Implementation Committee (LUPIC): Public hearing to receive public comments on a request by the Land Use Plan Implementation Committee (LUPIC)

The Chairman introduced the Compact Community public hearing and asked that everyone be courteous and brief.

Paul McCoy, 3557 Pea Ridge Road, New Hill, NC, pointed out that LUPIC in its present form has the ability to shut down upscale housing projects. He stated that farm people are strapped and cannot afford to continue to pay the necessary taxes. He voiced support for upscale housing. He stated that he thinks the LUPIC plan ought to be thrown out and that we need to start over again; that he thinks the conclusion was arrived at before the process; that he thinks the existing ordinance draft takes away freedoms and the possibility of the Lowes Home Improvement and Home Depots to pay for things like water lines across the County. He stated that he thinks this kind of responsible growth needs to be what this County is about and a few liberals have made these decisions without understanding how the real world works.

Nick Robinson, PO Box 607, Pittsboro, NC, thanked the Board for the opportunity to address the audience. He commended the hours of work on nights and weekends by volunteers and stated that everyone who worked on it needs to be commended; that he hopes this work will be the first step for a practical zoning ordinance in Chatham County; that his first concern was the ordinance length; that other municipalities have ordinances that are much shorter and have all the necessary components; that the County's ordinance is six pages of definitions plus sixty-two other pages; that the County's includes other regulatory affairs in the federal and state arenas; and that many of the regulations laid out are not defensible. He asked how much it will cost to implement and regulate the intricacies of the ordinance stating that it will be difficult for landowners to satisfy the requirements as well and that the ordinance needs to be streamlined.

Mr. Robinson read written comments on behalf of Mark Ashness stating that Mark's model makes certain reasonable assumptions and asks how many homes one could build on one thousand acres should all the provisions be complied with. His model returns an estimated number of five hundred homes.

Gerald Totten, 108 Petty Road, Siler City, NC, stated that it is obvious the LUPIC committee spent a lot of time on the document; that it precludes real property development; that some of its provisions may be moved into other developments; that many comments were made with little positive dialogue; that areas were denounced by many different people; unfortunately, many denouncements did not make it into the document; that there is a fifteen page summary for a sixty-two page document; that much of the language is not understandable by a majority of the population; that there is not representation by developers on the LUPIC committee; that the County does not need another experience like the hog ordinance; that the ordinance was pre-ordained and the house was built around it; that Triangle J had more input into this ordinance than the input of Chatham County citizens; and that there was little time for study by citizens and other commissioners.

Stephen Hawthorne, 707 Spindlewood, Pittsboro, NC, stated that development can be a good thing but that it has to start with well-controlled development; that scrambling for short term profit can destroy counties and entire regions; that the leaders of Chatham County need to pay attention to good development; that this plan is needed in Chatham County; that developers will come regardless because of the location; that it will be developed profitably regardless; that he hopes the Board of Commissioners will vote for this plan; that the last time a whole lot of money came into the County from out-of-state was during Reconstruction; that there are a good number of Chatham County citizens who can decide with their vote.

Lee Sullivan, 255 Lois Lane, Pittsboro, NC, commended the Board for what it has to put up with. He pointed out that he is a property owner beside a proposed development and he has serious concerns over the two-mile separation requirement. He asked that he be allowed to submit several petitions at a later date. He pointed out that much of the suggestions are too restrictive and appear to prevent one large development from

being done.

Mike Fox, PO Box 252, Moncure, NC, appeared to spell out his concern that concessions expected in trade for double densities be legally binding. He referenced an article that explained that Durham has been unsuccessful at holding developers accountable for the necessary exactions. He also offered an example of Kildaire Farms development where the development went broke and the developer left the County on the hook for several facilities. He offered a few solutions including performance bonding and staggered certificates of occupancy where the developer must build a certain number of homes and certain facilities before moving onto the next phase.

- **Tommy Glosson**, 738 Mt. Olive Church Road, Pittsboro, NC, stated that Chatham County has more ordinances than any surrounding jurisdiction; that this ordinance will not work; that the high end development will not foster walking; that folks occupying homes this expensive are not going to walk to get their groceries; that there is no mention of affordable housing; that the water quality component being turned over to a citizens' group bothers him; that this is the beginning of countywide zoning; and that he recommends the Board of Commissioners not approve this plan.

- **Joe Baysden**, 38 Twin Oaks Court, Pittsboro, NC, commended the LUPIC participants. He suggested that this plan protects the County's tax base, that it protects water quality for years to come by guaranteeing management of wastewater facilities, and offers a good set of guidelines that will save time in future processes.

Michael Burke, 751 Windsor Road, Chapel Hill, NC, offered comments related to the openness of the LUPIC process. He cited his participation on a subcommittee. He mentioned some of the parts that he did not agree with like size limitations. He also reminded the audience, however, that the draft resembles what the land use plan intended. He mentioned some of the things missing like the need for traffic mitigation before construction starts. He pointed out the need to encourage use of environmentally friendly materials.

- **Rachel Winters**, 127 Lady Bug Lane, Chapel Hill, NC, speaking on behalf of the Haw River Assembly appeared to support the ordinance draft. She stated that it minimizes the impact of high density developments and that current minimum standards are not sufficient. She voiced support for the water quality board in order to insert expertise into the technical review process specific to stormwater and wastewater. She stated that they agree with water supply protections, tertiary treatment of wastewater to the reuse level, the list of options for wastewater spray field design, and stormwater management requirements specific to protective structures; that they strongly agree with required buffers; that they support the requirement of 30 percent open space and suggested consulting the Natural Heritage Inventory. She further stated that they support payments to a mitigation fund.

Josh Prokopy, 103 Fallen Log Road, Chapel Hill, NC, stated that he is a representative of the Chatham County Affordable Housing Coalition; that there is a very real pool of potential homebuyers that could not afford to buy a house in eastern Chatham County; that high-end compact communities will lead to a higher rise in housing costs; that the plan risks future homeowners and restricts them to only the wealthy; that requiring developers to require affordable housing (as the LUPIC document does) is one viable solution; that Triangle J's recent study showed that affordable housing does not negatively affect property values.

Mitch Barron, PO Box 1480, Pittsboro, NC, pointed out that the existing LUPIC document restricts potential development to the standard septic system large lot. He also pointed out the densities the ordinance hopes to achieve would require high density attached housing and ignores the market for a mix of single family housing types; that the complexity of the ordinance will deter developers; that the potential cost of permitting, etc. will deter developers; and that Newland Communities would like to assist in developing

modifications to the ordinance.

Ben Campbell, 588 Stone Wall Road, Pittsboro, NC, introduced himself as having sat in on certain LUPIC meetings. He mentioned that he was very impressed with the process and the expertise of committee members. He reminded the audience that public meetings were held to gather comment for a month nearly every night. He mentioned that while the ordinance is long, it is also thorough. He suggested the need for these reasonable requirements that protect the quality of life in Chatham County and stated that developers that meet these requirements are the kinds of developers that are wanted in Chatham County. He suggested also that a similar review should take place with the subdivision regulations to be sure that they are also in line with the Land Use Plan.

John Delafield, 336 John Horton Road, Apex, NC, spoke as a member of the Chatham County Homebuilders Association and as a LUPIC participant. He first weighed in as a member of the Homebuilders Association. He communicated general concerns about many of the restrictions in the document on behalf of the Association and asked for an opportunity at a later date to respond to each of these issues. He then offered comments in his role as a LUPIC member. He stated that he believes in the process to incorporate all of the divergent points of view being mentioned at the night's meeting. He also suggested that these very complicated issues need to be examined closely at the level of the details. He challenged the Board to set the bar high and take the time to listen to the details so that the County accomplishes all that it wants to accomplish. He stated that he believes the general goals are agreed to by most everyone in the room and asked for careful consideration of the details.

Tony Tucker, President of the Chatham County Economic Development Director stated he was speaking on behalf of Jennifer Andrews (1000 Duncan Farm Road, Siler City, NC), representing the Chamber of Commerce; that LUPIC's recommended ordinance is anti-growth and anti-business; that the issues and recommendation would result in Chatham County's inability to attract developers, thus causing the economic viability to die; that there are stringent scales with regard to water quality and wastewater systems; that they encourage the passing of a compact communities ordinance that meets the needs of the County's citizens.

- **Mark McBee**, 84 Pine Lake Drive, Siler City, NC, stated that countless hours went into the development of the compact communities ordinance; that the balance between the several forces misses the mark; that it is laid out in the minority report; that all different inputs are used for completion of the ordinance; that they do want planned growth; that it is a recipe for the status quo; that the ordinance goes too far; that he hopes the Board of Commissioners considers the minority report and accept the unenviable task of balancing all of the competing interests.

Karl Ernst, 711 Red Oak Drive, Siler City, NC, introduced himself as having participated in this process as an advisor associated with the Strategic Planning effort. He reiterated the need to work with the current draft to make it work given the unusual challenge of regulating the possibility of building 1000 homes with 3000 people at one time. He suggested that the night's hearing is the beginning of a discussion process where compromise is necessary. He listed issues associated with water supply, water quality, waste management, fiscal impact, and the overall need to plan for growth in the County.

- **Marti Hipple**, 170 T. C. Justice Road, Pittsboro, NC, stated that the draft ordinance is somewhat like a Christmas wish list; that no developer would ever be able to comply with everything in the document and still make a profit; that if adopted in its present form, the ordinance would effectively kill development of compact communities; and that while she knows little about development, she does not believe a developer can comply with the regulations as presented.

- **Greg Isenhour**, 214 Stone Wall Road, Pittsboro, NC, introduced himself as a citizen, homebuilder,

developer, and president of a North Carolina Homebuilders Association. He applauds the efforts and thinks the draft ordinance presents a utopian approach. He stated that he is in favor of the ordinance, but that it must allow for economic feasibility; that current restrictions will lead to half a million dollar houses; and that he supports some of what is in the ordinance, but asked all involved to get down to practical solutions.

Paul Kachergis, 1067 Morris Road, Pittsboro, NC, reported on a precinct meeting that occurred in the community of Bynum. He indicated a concern that growth does not lead to lower taxes. He pointed out that higher densities lead to higher taxes. He stated that growth that is too fast and not planned well and that does not give the County something will run long-time landowners out of the County.

Gerald Featherstone, 117 Penna, Pittsboro, NC, stated that water is a major concern; that we are forcing out the lower income families; that Chatham County has the potential to protect all aspects of the community; that Chatham County has a wonderful mixed diversity; that there is a need to make sure it will not drive off those who live in the County that can no longer afford to live here.

TAX DEPARTMENT

Request to Approve Relief of the Late List Penalty on Business Personal Property for Triangle Brick: Consideration of a request to approve relief of the late penalty on business personal property for Triangle Brick

Kim Horton, Chatham County Tax Administrator, explained that Triangle Brick is a very responsible taxpayer, however, precedence dictates that the request be denied.

Scott Mollenkopf, Vice President Chief Financial Officer and Treasurer of Triangle Brick, stated that they were late with their listing; that they have paid the penalty and the listing; that the delay in listing was due to a personnel matter; that the senior employee responsible for listing real and personal property was suffering from a serious health condition; that the employee concealed the extent of his health condition and left work abruptly in March; that it did not happen just in Chatham County; that by the time they discovered they were late, they were too late for the deadline; and that their late listing was not willful or due to negligence. He stated that they recognized the importance of timely and accurate listings and intend to comply fully in the future.

Commissioner Outz moved to forgive the penalty.

After further discussion, Commissioner Outz withdrew his motion.

Commissioner Outz moved to defer a decision on the matter until a later date and that staff return to the Board with a policy regarding these types of matters. The motion was seconded by Commissioner Morgan. The motion carried four (4) to zero (0).

BOARDS AND COMMITTEES

Triangle J Council Of Governments (TJCOG) Smart Growth Committee Appointment: Consideration of a request to appoint a Planning Board Member and alternate to the Triangle J Council of Governments' (TJCOG) Smart Growth Committee

Commissioner Morgan moved, seconded by Commissioner Pollard, to appoint Charles Eliason as a member and Steve Silkop to serve as an alternate representative to the TJCOG Smart Growth Committee. The motion carried four (4) to zero (0).

MANAGER' S REPORTS

The County Manager reported on the following:

Rural Operating Assistance Program:

The North Carolina Department of Transportation Public Transportation Division (NCDOT/PTD) has combined their three operating assistance programs into one application process. Rural General Public funds must be used in a manner consistent with the local General Public Service Plan already approved and on file with NCDOT/PTD. A public hearing must be held in order to receive these funds.

By consensus, the Board set April 7, 2003 as the date on which to hold a public hearing to receive public comments on the Rural Operating Assistance Program (ROAP)

COMMISSIONERS' REPORTS

Commissioner Appointment to the Chatham Education Foundation:

Commissioner Outz moved, seconded by Chairman Emerson, to appoint Commissioner Pollard to the Chatham Education Foundation. The motion carried four (4) to zero (0).

Small Pox Vaccination Policy:

Commissioner Morgan moved, seconded by Commissioner Outz, to approve the Small Pox Vaccination Policy as presented by the Chatham County Health Director and to request reimbursement from the federal government, if needed. The motion carried four (4) to zero (0).

Council on Aging:

Commissioner Morgan stated that on March 10, 2003, Joe Quinn, a member of the Chatham County Council on Aging Board presented a program on "Proposed Concept for a Western Chatham/Siler City Human Services Center" to the Board of Commissioners; that besides a fine presentation the Board enjoyed a delicious meal; that Mr. Quinn's recommendation asked that the Board authorize the County Manager to prepare a Request for Proposals (RFP) to cover the following dimension of this concept: "Financial-Economic Space Utilization-Construction Estimate-Financing of Construction-Optimal Location and Best Interest of Chatham County and it's Citizens"; that this RFP would result in offers from Triangle J Council of Governments and other qualified professional consulting firms to perform the required analyses and recommendations.

Commissioner Morgan further stated that although he felt that most of the Board would like to be able to have a complex such as this, Chatham County is not in the position financially at this time to carry through with such dreams; that the requested feasibility study would cost the County between \$30,000 - \$50,000; that in his opinion, if they cannot possibly carry through with the proposed project, they will be wasting their time and money to even administer the feasibility study; that last Friday, he discussed the proposal with Council on Aging Executive Director, Lonnie West; that he asked him if the presentation was to be carried to the Board

of Commissioners for a vote and he answered in the affirmative.

Commissioner Morgan moved, seconded by Commissioner Outz, to not authorize the County Manager to prepare a Request for Proposal (RFP) for the Concept for a Western Chatham/Siler City Area Human Services Center. The motion carried four (4) to zero (0).

Certified Municipal Clerk Recognition:

The Chairman recognized Sandra Sublett, Clerk to the Board, on achieving her Certified Municipal Clerk status with the International Institute of Municipal Clerks stating that the Board was extremely proud of her accomplishment and the personal effort that it represents. He asked that the minutes reflect the Board's appreciation to the Clerk for her hard work efforts.

April 7, 2003 Work Session:

- Commissioner Outz moved, seconded by Commissioner Pollard, to hold a work session on the afternoon of April 7, 2003 Board of Commissioners meeting to discuss LUPIC details. The motion carried four (4) to zero (0).

Noise Ordinance:

Commissioner Outz expressed a desire to take action on the Noise Ordinance.

The County Manager stated that staff was pursuing discussions with the Sheriff and County Attorney regarding legal options available to reduce noise problems.

ADJOURNMENT

Commissioner Pollard moved, seconded by Commissioner Outz, that there being no further business to come before the Board, the meeting be adjourned. The motion carried four (4) to zero (0), and the meeting was adjourned at 11:04 PM.

Thomas J. Emerson, Chairman

ATTEST:

Sandra B. Sublett, CMC
Chatham County Board of Commissioners