

**MINUTES  
CHATHAM COUNTY BOARD OF COMMISSIONERS  
WORK SESSION  
JANUARY 17, 2012**

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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 4:00 PM on January 17, 2012.

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

Absent: Commissioner Pamela Stewart

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

*Work Session*

1. **Public Input Session**
2. **Employee of the Month Presentation**
3. **Board of Adjustment:** Discussion regarding the Board of Adjustment and assigning those responsibilities to an advisory board or establishing a separate board
4. **Public Records Policy:** Vote on Public Records Policy and Employee Protocol
5. **Sign Ordinance Discussion**

**CALL TO ORDER**

The Chairman welcomed everyone in attendance and called the Work Session to order at 4:02 PM.

**PUBLIC INPUT SESSION**

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

**EMPLOYEE OF THE MONTH**

Carolyn Miller, Human Resources Director, explained that Roy Robinson, Facilities Maintenance Worker II, is the January 2012 Employee of the Month. She stated that Roy has worked for the county for nearly five years. An excerpt from his nomination form follows:

“It gives us great pleasure to nominate Roy Robinson for the Chatham County Employee of the Month Award. Roy performs the custodial duties in the Chatham County Agriculture Building in addition to several other County buildings. Roy is a very hard worker that takes great pride in his work. He is very helpful when asked to perform a task that may be outside of his normal job duties. His attention to detail and consistent quality of work personifies the Chatham County employee of the month criteria with excellence.

Roy performs his expected duties with a smile on his face; and, when there are extra jobs to do as the result of Extension programming, he never complains and makes sure that the rooms are cleaned and organized in a timely manner. When asked to help with a task that is not in his normal routine, Roy has never been known to say, “that is not my job”; rather he quickly steps in to help whoever with whatever needs to be done. Even though he is assigned to a mid 1950’s era facility that has never had a major facelift, he works hard to keep the facility as clean and attractive to the public as he possibly can. Roy encourages practices such as recycling, not in a verbal way, but by making sure that recycling containers are emptied on a regular basis so that it makes it easy to recycle. Roy has integrated himself as a part of the Cooperative Extension Team here in Chatham County. Even though he is technically assigned to Facilities Management, we consider him a part of our team and when he is temporarily assigned to other buildings and is away from the Agriculture Building for a period of time, his absence is definitely noticeable.”

The Chairman congratulated Mr. Robinson and thanked him for his service to the County.

### **BOARD OF ADJUSTMENT**

Jason Sullivan, Planning Director, explained the specifics of the requirements for the Board of Adjustment requirement in a PowerPoint as follows:



## Board of Adjustment

- ▶ NCGS 153A-345 Board of Adjustment
  - (b) A zoning ordinance or those provisions of a unified development ordinance adopted pursuant to the authority granted in this Part shall provide that the board of adjustment shall hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official charged with the enforcement of that ordinance. Any person aggrieved or any officer, department, board, or bureau of the county may take an appeal.
- ▶ Zoning Ordinance
  - Section 18 -Establishes the Board of Adjustment
  - Section 18.1 Board of Adjustment Created
    - “A Board of Adjustment is hereby established. The Chatham County Board of Commissioners shall appoint the membership and provide for its organization.”



## Board of Adjustment

- ▶ Ordinances covered by Board of Adjustment (BOA)
  - Zoning Ordinance
  - Lighting Ordinance
  - Flood Damage Prevention Ordinance
  - Junk Yard Ordinance
  - Communication Towers Ordinance
  - Off-Premise Sign Ordinance
  - Mobile Home Ordinance (appeals)
  - Educational Facilities Impact Fee Ordinance
- ▶ Watershed Review Board (WRB)
  - Hear appeals and variances from the Watershed Protection Ordinance
  - Environmental Review Advisory Committee currently serves as WRB



## Board of Adjustment

- ▶ NCGS 153A-345 Board of Adjustment
- ▶ (a) The board of commissioners may provide for the appointment and compensation, if any, of a board of adjustment consisting of at least five members, each to be appointed for three years. In appointing the original members of the board, or in filling vacancies caused by the expiration of the terms of existing members, the board of commissioners may appoint some members for less than three years to the end that thereafter the terms of all members do not expire at the same time. The board of commissioners may provide for the appointment and compensation, if any, of alternate members to serve on the board in the absence or temporary disqualification of any regular member or to fill a vacancy pending appointment of a member. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member, while attending any regular or special meeting of the board and serving on behalf of a regular member, has and may exercise all the powers and duties of a regular member. If the board of commissioners does not zone the entire territorial jurisdiction of the county, each designated zoning area shall have at least one resident as a member of the board of adjustment.
- ▶ A county may designate a planning board or the board of county commissioners to perform any or all of the duties of a board of adjustment in addition to its other duties.



## Board of Adjustment

- ▶ General Statutes
  - BOC can appoint themselves or Planning Board to serve as Board of Adjustment
  - Can also appoint a separate BOA, but if entire jurisdiction is not zoned “each designated zoning area shall have at least one resident as a member of the board of adjustment”. ([Zoning Map](#))
  - Zoning Map has 18 separate zoning areas as the result of Corps property and extraterritorial planning jurisdictions
- ▶ Discussed with Planning Board at their December 3<sup>rd</sup> meeting
  - Voted 7-0-1 to recommend the appointment of a separate Board of Adjustment and not appoint the responsibilities to the Planning Board



## Board of Adjustment

### ▶ Issues

- Staff has discussed with the County Attorney and School of Government faculty.
  - Provision for BOA members for each zoning area was placed in statutes when counties were transitioning into zoning and more discrete areas defined
  - Situation with Corps property was not contemplated (i.e. local governments cannot regulate federal property)
  - Also, islands in Cary area due to annexations

### ▶ Options

- Zone Corps property with a special zoning district with no enforcement
- Treat Corps property as contiguous for determining zoning area
- May be able to meet the spirit of the statute by treating areas split by ETJs as contiguous
- Include representation from unzoned areas because several other regulations are applied in those areas that rely on BOA for appeals and variances
- Seek local legislation to resolve the problem and allow appointments to BOA without the requirement of representation from each zoning area



Commissioner Kost asked if the Statutes define the zoned areas as something that is contiguous asking that if it is not connected, is it an area. Mr. Sullivan stated that was the interpretation. He stated that the County Attorney and the School of Government stated that these were all separate, zoned areas. He stated that he didn't know that there was a definition of a "zoned area" in the Statutes but that is the legal interpretation they have received.

Chairman Bock asked if a member would have to be from each of those areas. Mr. Sullivan stated that was a literal interpretation of the General Statutes.

Mr. Sullivan stated that this was discussed with the Planning Board at their December meeting. They voted 7-0 with 1 abstention to recommend the appointment of a separate Board of Adjustment from the Planning Board in that role.

Commissioner Cross asked if there is anything that says that all of the zoned areas can't be numbered and give the representatives. Mr. Sullivan stated that the Statute says that it is the residents of the area. Then, there is the question of whether we want to treat certain areas and say that if "John Smith" lives in this area and he covers the four districts that are split, we could try it.

Chairman Bock stated that he didn't think they would have too much trouble in getting local legislation. Then they wouldn't have to be worried about being challenged in the future.

Commissioner Kost agreed asking if it could be done in short session as it is the most direct solution to the problem. She stated that she understood the concerns of the Planning Board as they were the same concerns she had as a Commissioner and she felt it had to be resolved about the zoned areas.

Chairman Bock asked that it be looked into.

Mr. Sullivan reiterated that things would be left as they now are and local legislation would be pursued.

Jep Rose, County Attorney, asked how many members the Board felt should be on the Board of Adjustment.

Commissioner Kost stated that she felt there should be five from the zoned portion of the County and there should be representation from the unzoned part of the County.

Commissioner Cross stated that each Commissioner district has some zoned areas so it might be done by Commissioner' districts.

By consensus, the Board thought that was a good idea.

Mr. Rose reiterated that there would be five members on the Board of Adjustment.

Commissioner Kost stated that would give representation from the unzoned portion as some of the other ordinances (Junk and Mobile Homes) impact the unzoned portion of the County.

Mr. Sullivan stated that Staff would work with the County Manager and County Attorney on this matter.

Commissioner Kost asked for a copy of the Board of Adjustment PowerPoint.

### **PUBLIC RECORDS POLICY**

Jep Rose, County Attorney, explained that the proposed policy is in the process of being developed and would need Board of Commissioners' approval.

The County Manager explained that was correct. He stated that the policy covers social media which is ever-increasing.

Commissioner Kost stated that the policy is not totally inclusive and asked if there was another policy regarding records retention.

Mr. Rose explained that records retention is in the policy, but it is regulated by the State.

Commissioner Kost stated that the policy states that after the minutes of the meeting are prepared, the recordings can be destroyed. She stated that she remembers a policy saying that the recordings have to be kept as long as any sitting Commissioner is still on the Board. She stated that she was afraid there was conflict in two policies.

Mr. Rose stated that he did not realize there was another policy.

The County Manager stated that he was aware that it had been discussed, but was not certain how it dove-tailed into the State policy.

Mr. Rose stated that could be put in, that as it is now, after the minutes are prepared, you could legally dispose of the audio.

Commissioner Kost stated that it was done approximately six years ago. She stated that it needed to be cleared up before the present policy is adopted.

Mr. Rose asked if the Clerk would research the policy.

Commissioner Kost stated that the policy referenced "Meta Data" and asked for clarification.

Mr. Rose explained that it was the attachments and backups to emails.

Commissioner Kost stated that the policy needs to more clearly define it or another term needs to be used. She asked if a citizen writes to a Planning Board member, if the Planning Board expected to keep the information.

Mr. Rose stated that if it is related to public business, the Planning Board member should retain it until the action is taken. Commissioner Kost stated that the policy should state that expectation as most of the advisory board members do not realize that their emails dealing with County matters are public matters.

Mr. Rose stated that it could be put into the policy; however, the policy was directed toward employees.

Commissioner Kost asked how long an email has to be kept. Mr. Rose explained that it should be kept as long as it is still useful.

Commissioner Kost stated that she thought if it came through the County email, it would go under the County server and be backed up. She asked if this was an issue if a request was to be responded to on the server.

Mr. Rose stated that it would probably be easier to find if it was not deleted from the personal computer.

The County Manager stated that the Board was getting into what Staff has been working on for months.

Mr. Rose stated that someone from MIS might be needed to address this.

Commissioner Kost stated that one of the reasons she wanted to get County email addresses was so they could respond to public records requests. For the longest time, she stated that there was no backup. After they were told there was backup, they were allowed to delete as they wished.

The County Manager explained when there is a public records' request, it goes to MIS to assimilate all the data. It then goes to the County Attorney's Office where all that is not pertinent to the request is redacted and it is then sent out.

The County Attorney explained that it would be researched and reported back to the Board.

### **SIGN ORDINANCE DISCUSSION**

Commissioner Kost stated that she asked that this be brought back up because they are not enforcing the Sign Ordinance. She stated that there is a pending Board of Adjustment case on the Sign Ordinance stating she has gotten reports from people who think the road is getting cluttered.

Mr. Sullivan explained that when they receive a complaint, they turn it over to NCDOT. It is up to their discretion as to whether they want to handle it. They had one issue of a banner sign that had been placed on Highway #15-501. He received two complaints within a couple of hours. He stated that he called DOT and by the end of the week, the banner was gone. He stated that he did not know if it was removed by DOT or the owner. As far as modifications with the Zoning Ordinance Amendments, they are going to address conditional zoning but will address some of the minor issues with the Sign Ordinance as it relates to the rights-of-way. The issue will be whether they will enforce the rights-of-way as a County as it is DOT's right-of-way, and by law, they are responsible for enforcement. The issue pending on the Board of Adjustment appeal is related to the lighting section and relates to internal lighting. He stated that they would address it with the first round they bring forward with regard to internally illuminated signs. He stated that with regard to the overall Sign Ordinance, they will want to address it separately as they start going through section by section of the ordinance later in the year. The first round of Zoning Ordinance Amendments will come forth at the February meeting to see if the Board will want to set a public hearing in March.

Commissioner Kost asked when the County was enforcing the rights-of-way, how many hours of Staff time was being used. Mr. Sullivan explained that it depended on the time of year, usually once per week they were going out and picking up signs. At different times of the year when there was more activity or there were more signs going up i.e. political seasons, there was more enforcement during those periods. With the last legislative cycle, those signs are basically off-limits now.

Commissioner Kost asked about the change in the law. Mr. Sullivan explained that political signs are allowed within the rights-of-way during the election cycle and are defined in the General Statute. It said that they were “political signs” which further complicate the issue as it had to coincide with the filing date and so many days after the general election. It did not say that they were campaign signs, but political signs, which further complicates it because it addresses more than just a candidate sign, and it did not address candidates that are from another jurisdiction.

Commissioner Kost asked if there was a bill number and if Mr. Sullivan would send it to her.

Commissioner Kost stated that they used to get an update of changes that happen in the legislature related to planning. She asked if that was to be continued. Mr. Sullivan stated that it could be done or that he could provide what the School of Government presented at the planning conference.

Commissioner Kost state that she, as a Commissioner or a citizen, found it to be very helpful when there are State changes that impact them locally.

Commissioner Cross stated that he thought it was on the Association’s website.

Mr. Sullivan stated that he would forward the information as an email attachment.

Chairman Bock stated that he thought Senate Bill 315 was the bill that would cover it. He stated that with regard to the Margaret Pollard Middle School, the size of the wording is legislated, but the size of the board that it is on is not. Mr. Sullivan stated that issue would be addressed as a larger overhaul of the entire section later in the year.

### **ADJOURNMENT**

Commissioner Kost moved, seconded by Commissioner Petty, to adjourn the meeting. The motion carried five (5) to zero (0), and the meeting adjourned at 4:35 PM.

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Brian Bock, Chairman

ATTEST:

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