

MINUTES
CHATHAM COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING
AUGUST 16, 2004

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 August 16, 2004.

Present: Chairman Tommy Emerson; Commissioners Margaret Pollard, Bunkey Morgan, and Bob Atwater; County Manager, Charlie Horne; County Attorney, Robert L. Gunn; Assistant County Manager, Renee Dickson; Finance Officer, Vicki McConnell; and Clerk to the Board, Sandra B. Sublett

Absent: Commissioner Outz

The meeting was called to order by the Chairman at 6:12 PM.

PLEDGE OF ALLEGIANCE AND INVOCATION

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

AGENDA

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

Commissioner Pollard moved, seconded by Commissioner Morgan, to approve the Agenda with the noted request. 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 moved, seconded by Commissioner Atwater, to approve the Consent Agenda as follows:

1. **Minutes:** Consideration of a request for approval of Board Minutes for Regular meeting held August 02, 2004 and Work Session held August 02, 2004

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

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

A. **Kings Landscape Drive** B. **Rush Road**

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

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

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

4. **NCDENR Agreement for Forestry Services:** Consideration of approval of agreement with NCDENR for forestry services, attached hereto and by reference made a part hereof.

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

5. **Final Approval of "Park Point East":** Consideration of a request by Landco Realty for subdivision final approval of "**Park Pointe East**", consisting of seven (7) lots on approximately 29 acres, located off SR #1700 (North Pea Ridge Road) in New Hope Township

As per the Planning Department and Planning Board, final approval of the plat was granted as submitted.

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

END OF CONSENT AGENDA

PUBLIC INPUT SESSION

Larry Ballas, 139 Indian Creek Lane, Apex, NC, stated that he would like to know what happened at the Economic Development Commission meeting held at Governors Club on May 5th and the results. He also questioned the restriction on the Public Input Session with regard to speaking once within a three-month period. He stated that the First Amendment guarantees free speech; that the process needs to be reevaluated; that that article be interpreted by the County Attorney; that he would like to congratulate everyone in Chatham County for voting in the primary; and Chatham had nearly 30% voter turnout. He reminded everyone of the upcoming Tuesday election stating that it is a statewide race.

PRESENTATION

Chatham Citizens for Effective Communities: Presentation by the Chatham Citizens for Effective Communities

Jeffrey Starkweather, stated that he was speaking on behalf of the Chatham Citizens for Effective Communities (CCEC) and the vast majority of voters who recently made it clear that they want meaningful involvement in the major development decisions the County is facing. He stated that they are addressing the second most important land use decision to be decided within the last century; that the first, impoundment of Jordan Lake, was not even made by Chatham County officials, but by political forces outside the County; that the next decision concerning Briar Chapel II will change the character of Chatham County forever; that Briar Chapel is bigger than Meadowmont and Southern Village combined; that the developers are proposing a development that will have approximately the same population as Siler City, a town of 7,400 people but in a space that is half Siler City's size; that Briar Chapel will permanently alter the traffic landscape of northern Chatham; that it will add a tremendous

burden on the County school system; that it will set a precedent for future compact community developments in the County; that it will have an irreversible impact on the quality of life in Chatham; that whether that impact is positive or negative will depend entirely on how it is designed and developed; that the CCEC is not opposed to Briar Chapel; that they are requesting that the Board provide a detailed review process with the depth and breadth such as a large and complex development requires...a review that will result in the best development possible for the County; that unlike previous development requests, a decision will be more in the form of negotiations concerning the details and impact of the proposal; that the Board has been entrusted with the difficult task of analyzing complicated technical impact studies and peer reviews in order to decide the best mitigation measures possible; that developers and their experts, the peer reviewers and citizens and their experts may all disagree on how best to accomplish this; that they are asking that prior to holding the official hearing, the following process be conducted:

1. The Board of Commissioners host an open forum with Newland and their experts that would include a presentation of their plan and impact statements and dialogue with the citizens and public officials.
2. The Board of Commissioners host a similar but separate public forum with the peer review consultants where they can explain their assumptions and findings and answer citizens and public officials' questions.
3. The Board of Commissioners set a public hearing no sooner than 30 days after the latter meeting with consultants so that all parties be fully informed prior to the official "quasi judicial" public hearing.

Mr. Starkweather stated that the additional review is needed for the following reasons:

1. Citizens made it clear during the last election that they want the Commissioners to do two things concerning development proposals:
 - A. Listen to citizen concerns, especially those citizens most affected by the Board's decisions; and
 - B. Put citizen needs first and negotiate with developers to obtain the best quality developments that have the least negative impacts on quality of life and taxes.
2. The current process is backwards and can lead to a less than fully informed testimony at the official public hearing. Since this is a conditional use permit, a quasi judicial hearing is required. Witnesses must testify under oath and cross-examination is permitted. But how can residents, home owners associations and their own experts provide meaningful public input and/or cross-examine the developer's experts without first having sufficient time to review the proposal and the peer reviews and questions the experts?
3. Their proposed process can help the County avoid lawsuits, like those as a result of the last two major development reviews under the backwards system – Chatham Downs and Homestead.
4. The stakes are too high to do anything less than take whatever time it takes to get it right. In addition to the fact that the Board is essentially designing a city, this development will affect the entire County. For example, the fiscal impact will depend on what facilities and fees the developer is required to provide. The traffic impact alone on

Highway #15-501 and surrounding roads will impact on thousands of residents from all over Chatham County who commute everyday to Chapel Hill or Durham to work.

He stated that Meadowmont and Southern Village both required more than two years of citizen and Planning Board reviews; that taking a few more months to get it right certainly cannot hurt anyone; that the Planning Director proposed during the discussion of the Compact Communities Ordinance these same types of informational hearings be held prior to the official public hearing; that prior to introducing the speakers who will follow and who support this request for these two informational forums prior to holding the public hearing, he wanted to thank the Board for allowing them the time on the night's agenda and for considering this citizen request.

He introduced the speakers whose comments follow.

Pierre Lauffer, Jordan Lake Task Force, stated that he was at the meeting to speak on behalf of the Jordan Lake Task Force; that it is a group of experts with years of experience on environmental impact analysis and water quality; that they asked for additional public input; that they would like to be resources for everyone; that Newland has addressed several points; that the question is who is going to pay for various impacts; and that they would like to work in partnership with different groups but have not been afforded the time.

David Stallard, stated that he invited the Board's attention to a serious problem with the Briar Chapel proposal, it's fiscal impact on Chatham County. He stated that the current proposal for Briar Chapel with 2,389 homes includes a very optimistic assessment of the fiscal impact on Chatham County at build-out by paid consultants resulting in a net annual return of \$905,855 to Chatham County at build-out; that with no financial interest in the outcome of the proposal, he has made a preliminary independent analysis of the fiscal impact of Briar Chapel at build-out and have the following conclusions at present:

- A. The consultant's estimates of student and total populations based on census;
- B. The estimated average price of a dwelling is rather high in light of current market conditions;
- C. If these estimates are adjusted, there may be a significant negative fiscal impact on Chatham.

He respectfully requested an extension of the citizen review period for the following reasons:

1. A valid fiscal impact assessment is of great, long-term importance to Chatham County;
2. The proposal is long and complex;
3. Information is needed from some professional people who are not presently available;
4. After the report of the peer reviewer, Tischler and Associates, becomes available, citizen review and questions of Tischler and Associates and Newland Communities will be needed;
5. One result of this extension would be an independent assessment of fiscal impact to Chatham at build-out that would be very useful to the Board.

He stated that fiscal mitigation, such as a new school to be built by Newland Communities, may be needed.

Martin Spritzer, stated that he has been able to meet personally with Mitch Barron of Newland Communities about the project's appearance. He stated that the exchange answered some questions and that he was able to present some concerns; that he has a favorable view with respect to appearance; that

informational meetings between the developer and the public are crucial to both parties; that the Board of Commissioners and Planning Board benefit from the meetings; that he supports the idea of additional informational meetings at a minimum; and that everyone benefits from the exchanges.

Mitch Renkow, stated that he works at NC State University in Agricultural Economics. He stated that after reading the fiscal and economic assessment, it is apparent that more public input and discussion is warranted; that it is needed to test assumptions; that the methods and assumptions of the economic assessment is far less credible; and that the rationale for assumptions needs to be made public.

Mary Bastin, stated that in the past the Board of Commissioners has experienced many problems that were directly related to lack of communication with the citizens of the County; that the CCEC is offering the Board the opportunity to do something constructive in the Briar Chapel process that will improve communication as well as create an opportunity for the citizens of Chatham County to become informed and be in dialogue with the Board, Newland, and the County staff in shaping Briar Chapel; that it will cost the Board a small amount of money to bring the consultants in to meet with them; that they are asking the Board to think about whose money they are spending and asking them to spend it; that if it was financially feasible for Newland to wait a couple of years to resubmit their proposal, a few more months will not impact their bottom line; and that they look at the time and money involved as a good investment. She asked that the Board give their request the consideration that it deserves.

Patrick Barnes, stated that this development would have a tremendous impact on the face of Chatham; that he supports additional input by citizens; and that the County has spent a great deal of time working through the Compact Communities Ordinance. He urged the Board to take advantage of this opportunity.

Norman Clark, stated that as a newly elected official and concerned citizen, he has a new perspective. He stated that as an Assistant Fire Marshal with the Town of Chapel Hill, he has reviewed Southern Village and Meadowmont; that he supports the initiative to further study this development; that the more information the better to be proactive and make better decisions for the community.

Mitch Barron, stated that he urged the passing of the Compact Communities Ordinance; that it was one of the most thorough as well as one of the most restrictive regulations that he had ever encountered primarily due to its precedent setting requirements regarding affordable housing, spray irrigation issues, water quality features, storm water management requirements, stream buffers, and more; that he pledged that Briar Chapel would be in complete compliance with the ordinance and that it would perform as promised while providing benefits to the County through the creation of new jobs, parks, sites for schools, and sites for other public facilities; that he promised it would pay its own way and not burden existing County agencies; that Briar Chapel is now in complete conformance to the ordinance that was created to govern its development; that after nearly four years of intense public input and debate, the new Briar Chapel plan is unarguably one of the most publicly discussed, reviewed and revised land use plans created in the County and perhaps the State; that more people have had the opportunity to provide input into Briar Chapel than any other project he has ever witnessed, but as evidenced through the changes that were made, that public scrutiny has been a positive, though expensive and exhaustive, process; that the plan submitted in their application on June 30, 2004 sets a new standard for Chatham County in both its development activities and in its benefits to Chatham County; that it creates over 1,400 new construction jobs and an additional 2,400 permanent jobs; that it generates \$47 million in income in the County, \$8.1 million in funding to the Board of Education, between \$1.5 million and \$2 million in external road improvements, and \$6.4 million in tax revenues to the County each and every year; that it also creates 120 affordably priced home sites, provides recreational opportunities for all County residents, provides ball fields for the youth leagues and protects

over 900 acres of open space; that through project phasing, Briar Chapel helps the County manage and balance growth with other quality of life needs while paying its own way and by providing positive tax revenues, jobs and school funding that will benefit all of Chatham County; that over the past years, there have been hundreds of meetings, presentations, workshops, and opportunities for public review and comment on Briar Chapel; that those representing Newland Carolinas have met with hundreds of people representing their own interest as well as those of numerous organizations and associations; that they asked what the residents of Chatham County wanted in a community like theirs; that they heard what they said and created a plan according to their vision.

He stated that in response to this input, Briar Chapel now offers a more compact and diverse community with a broad spectrum of housing types and much more acreage devoted to open space; that they moved the location of the school sites along the outer edge of the community to be more accessible to the County residents that will also be served by these schools; that they created an adjacent large regional park as well as miles of trailways for public use and easy public access; that they increased perimeter, stream, and view shed buffers; that they agreed to construct a tried and true conventional waste water treatment system with high quality reuse water; that they implemented a more stringent storm water management plan utilizing low impact design criteria and added a water tower to benefit both the residents of Briar Chapel and the County as a whole; that they also created ball fields to accommodate County-wide community sports groups, particularly for the ever increasing needs of the youth of Chatham County; that all of this was done because it is what people said they wanted and needed; that in doing so, they met and in many cases exceeded the Compact Communities Ordinance which was created to regulate and govern Briar Chapel.

He further stated that after this, the public process was far from being over; that they secure even more input every day; that they are moving around the County meeting with all levels of community leadership, including those in business, recreation, economic development, farming, ranching, open space preservation, education, the arts, and more; that additionally, they will soon announce the locations of a series of public workshops that they will conduct throughout the County to further share the plans for Briar chapel and seek even more public input so that by the time they are asked to vote on Briar Chapel, they will know that it reflects the desires and needs of the County as a whole and not just the needs of a few; that hopefully, they can then continue the journey of Briar Chapel through the County's public review and approval process; that the process needs to begin, as do all developments in the County, with the scheduling of the initial public hearing which the Board has on the agenda for discussion at the night's meeting; that the conditions set forth in the Compact Communities Ordinance, or otherwise stated in public meetings, require that the peer review reports be in hand thirty days before a public hearing date could be established; that as he understood it, these reports are nearing finalization and since they have duly complied with this requirement as they have done all others, they respectfully request that the public hearing date be set at the night's meeting.

PLANNING DEPARTMENT

Business Conditional Use District with Conditional Use Permit: Consideration of a request by **Danny F. Thomas** for a B-1 Business Conditional Use District with a Conditional Use Permit for self-storage facility/mini-warehouse storage facility with related retail and services (moving truck rental), on approximately 1.445 acres, off Highway #64 East in New Hope Township

As per the Planning Department and Planning Board recommendation, Commissioner Morgan moved, seconded by Commissioner Atwater to grant the request for a Conditional Use B-1 Business District with a conditional use permit for a self-storage facility/mini-warehouse storage facility with related retail and services (moving truck rental) with the following conditions to include Condition # 17 stating that "If the project is not completed within two years, the Board of Commissioners will initiate

the process of changing the zoning back to RA-40 district.”:

1. Construction Deadline. This permit shall automatically expire on the first anniversary of its issuance unless (a) construction has commenced after issuance of Zoning Determination and Building Permits; or (b) a timely-filed application for an extension of time has been approved by the County. This permit shall automatically expire on the second anniversary of its issuance unless the construction of all required improvements has been completed.
2. Land Use Intensity. This conditional use permit approves:

Gross Land Area	1.445 Acres
Impervious surface area	36%
Minimum Lot Size	As required
Minimum Street Frontage	As required
Setbacks	Front yard: 50 feet Side yard: 20 feet Rear Yard: 20 feet
3. Watershed Management. A detailed watershed protection plan for the entire project area which shall include impervious surface calculations and a monitoring plan to assure compliance with the maximum impervious surface area allowed herein shall be approved by the Planning Department prior to issuance of a Zoning Determination Permit. Prior to issuance of a Certificate of Occupancy, the developer shall submit evidence satisfactory to the Planning Department of compliance with the approved plan.
4. Storm Water Management. A storm water management plan sufficient to collect and detain the first inch of rainfall from the entire project area shall be approved by the Planning Department prior to issuance of a Zoning Determination permit, and the developer is required to provide the Planning Department with final plans and an impervious surface calculation sheet. The developer shall construct storm water management control measures sufficient to serve the entire project area prior to issuance of a Certificate of Occupancy.
5. Fire Flow. A fire flow report indicating adequate design be approved by the Chatham County Fire Marshal and Planning Department prior to issuance of a Zoning Determination Permit. Adequate fire flow shall be demonstrated prior to issuance of a certificate of occupancy. Any final plan shall indicate adequate access for pumper trucks.
6. Lighting Plan Approval. All area lighting shall meet the Chatham County Lighting Ordinance (draft dated 9-2-03) standards and not adversely affect adjoining residential areas.
7. Utility and Access Easements. Easement documents as required by the County for any public utilities used or furnished to the project area shall be recorded prior to issuance of a Zoning Determination Permit.
8. Permits. Any required State or Federal permits or encroachment agreements, including a commercial driveway permit(s) from NCDOT be obtained and copies submitted to the County prior to the issuance of a Zoning

Determination Permit.

9. Improvements. Off-site improvements required by N.C. DOT or any other agency shall be constructed at no cost to the County.
10. Parking and off-street loading areas. Parking and off-street loading areas shall be installed in accordance with the ordinances and policies of the County.

Stipulations Related to Landscape Elements

11. Landscaping/Screening. All required screening and buffers shall be in place prior to issuance of a certificate of occupancy. Existing vegetation may be used to fully or partially fulfill the landscaping and buffering requirements of the County. The extent to which the same can be used shall be determined by the Planning Department prior to issuance of the Zoning Determination certificate.

Miscellaneous Stipulations

12. Erosion Control. If applicable, an erosion and sedimentation control plan be approved by the North Carolina Department of Environmental Health and Natural Resources and submitted to the Planning Department prior to the issuance of a Zoning Determination Permit.
13. Silt Control. The applicant shall take appropriate measures to prevent and remove the deposit of wet or dry silt on adjacent paved roadways.
14. Continued Validity. The continued validity and effectiveness of this approval was expressly conditioned upon the continued determination with the plans and conditions listed above.
15. Non-Severability. If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
16. Non-Waiver. Nothing contained herein shall be deemed to waive any discretion on the part of the County as to further development of the applicant's property and this permit shall not give the applicant any vested right to develop its property in any other manner than as set forth herein.
17. If the project is not completed within two years, the Board of Commissioners will initiate the process of changing the zoning back to RA-40 district.

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

Set Public Hearing for Briar Chapel: Consideration of a request to set a date on which to hold a public hearing for the Briar Chapel proposal (thirty days following peer review of impact assessments)

After considerable discussion, the Board, by consensus, agreed to delay setting a date on which to hold a public hearing for the Briar Chapel issue at the next Board of Commissioners' meeting to be held on September 7, 2004. The motion carried four (4) to zero (0).

The Chairman asked that the Newland Communities and the Chatham Citizens for Effective Communities meet to discuss public meeting schedules.

RECESS

The Chairman called for a two-minute recess.

BOARD OF COMMISSIONERS MATTERS

Vehicle Bids: Consideration of a request to award motor pool vehicles to Flow Automotive, Kernersville, NC

Commissioner Morgan moved, seconded by Commissioner Pollard, to award the vehicle bid to Flow Automotive, Kernersville, NC in the amount of \$99,492.90 for the purchase of nine Cavaliers and one Aveo. The motion carried four (4) to zero (0). The award is attached hereto and by reference made a part hereof.

The County Manager informed the Board that the County has purchased its first "hybrid" vehicle and that if it works as well as expected, additional conservation purchases will be made in the future.

Amendment One: Discussion of Amendment One

Commissioner Pollard moved, seconded by Commissioner Morgan, to approve **Resolution #2004-39 in Support of Amendment One: Self Financing Bonds (A Local Economic Development Tool to Create Quality Jobs, Revitalize Communities, and Attract New Economic Opportunities in North Carolina)**, attached hereto and by reference made a part hereof. The motion carried four (4) to zero (0).

MANAGER' S REPORTS

The County Manager had no reports.

COMMISSIONERS' REPORTS

Child Fatality Prevention Team Appointment:

Commissioner Morgan moved, seconded by Chairman Emerson, to appoint Clyde Miller, 1680 Center Grove Church Road, Moncure, NC to the Child Fatality Prevention Team. The motion carried four (4) to zero (0).

Stockyard Road Sewer:

Commissioner Morgan stated that it appears that there may be up to \$90,000.00 left in the Stockyard Road sewer fund; that he has a list of five individuals who want the County to extend the sewer lines to their property; and that he would like to see how far the funds can stretch.

The County Manager stated that staff is investigating eligibility for each of the homes plus others at this time.

Water to Builders First Source and S. T. Wooten:

Commissioner Morgan stated that Builders First Source and S. T. Wooten have both requested that water be run to their business; that the County has been searching for available grants; and that he has not heard anything with regard to this issue.

The County Manager stated that they are looking at job creation numbers.

Commission Morgan stated that he would like to pursue this matter.

Deer Run Subdivision Water:

Commissioner Morgan stated that the Deer Run Subdivision, located directly across the road from the main entrance of Heritage Point and approximately one mile east of Wilsonville, is interested in obtaining County water; that since Builders First Source was first built, the concrete mixing plant and the nursery located nearby, they have been nervous regarding the water table in the area; that they have a list of twelve residents who are interested in County water; that the residents are asking that the line which serves Heritage Point be brought across Highway #64 at its intersection with East Dee Run; and that that line could then serve Deer Run as well as continuing down the road to serve Builders First Source.

The County Manager confirmed that there had been a number of inquiries regarding this matter.

Fall 2004 "Litter Sweep" Roadside Cleanup:

Chairman Emerson informed the Board that he had received notice from the NC Department of Transportation regarding the fall 2004 "Litter Sweep" roadside cleanup to take place September 18-October 3, 2004. He stated that they are asking for local participation; that there is a local coordinator (Sharon Williams 919-742-3431) that helps with organization of the project; that the roads are a disgrace; that to emphasize the importance of clean roads and a clean environment, Governor Easley has issued a proclamation naming September 18-October 3, 2004 *LITTER SWEEP* time in North Carolina; that NCDOT crews, local governments, the Department of Correction inmates, Adopt-A-Highway volunteers, churches, civic organizations, schools, businesses and concerned citizens across the state will be cleaning roadsides; that working together, the goal of a clean and beautiful North Carolina can be reached; that cleanup supplies may be picked up from the local NCDOT maintenance yard; that orange safety vests, orange trash bags, blue recycling bags and gloves will be available; that some counties will also have pickup sticks; that after the cleanup, the local NCDOT maintenance yard can be called to ask for the trash-filled orange bags to be picked up from the roadside.

The County Manager stated that the Solid Waste Department had already been contacted regarding this matter.

ADJOURNMENT

Commissioner Pollard moved, seconded by Commissioner Morgan, 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 7:45 PM.

Thomas J. Emerson, Chairman

ATTEST:

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