



# Chatham County, NC

## Meeting Minutes

### Board of Commissioners

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Monday, April 13, 2015

11:00 AM

Historic Courthouse Courtroom

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#### Special Meeting - 11:00 AM - Historic Courthouse Courtroom

**Present:** 5 - Chairman Jim Crawford, Commissioner Mike Cross, Vice Chair Diana Hales, Commissioner Karen Howard and Commissioner Walter Petty

#### INVOCATION and PLEDGE OF ALLEGIANCE

*Commissioner Cross delivered the invocation after which the Chairman invited everyone present to stand and recite the Pledge of Allegiance.*

#### CALL TO ORDER

*Chairman Crawford welcomed those in attendance and called the meeting to order at 11:00 AM.*

#### PUBLIC INPUT SESSION

*Therese Vick, 4617 Pearl Road, Raleigh, stated she was with the Blue Ridge Environmental Defense League. They have a chapter in Chatham and in Lee County. They are happy to be of any assistance with the coal ash issue.*

*Larry Ballas, stated the EPA published regulations December 14, 2014 that said coal ash is not a hazardous material. It can be recycled into concrete and other materials that are used in buildings and homes. He doesn't have an issue with coal ash being buried in Chatham County. It is produced to produce electricity; people have been using it for years. It does generate waste and now all of a sudden we are aware of it, we have to put it some place. Let's emphasize the recycling of what Duke has or bury it in a safe way. His concern is getting it from point a to point b in a safe way. It is coming from the coal fire power plants, being loaded into trucks, being transported to wherever the fill site is going to be and we don't know what is happening in between. He wants our county commissioners to ask the question of when these are put in trucks, that the truck driver is not going to dump it some place on the side of the road. That happened previously with PCP, when they were dumping those way up north of Warren County. The State really didn't do anything to those drivers; they couldn't identify who they were. He thinks we need some kind of identification by truck, if necessary going from point a to point b to make sure that the truck goes from point a to point b with a full load. I don't know how to do that. That is where your innovation comes in. The other thing I am concerned with is once these trucks are filled up they may not be transported immediately. Some of that coal ash may dry. If it is going to be dry it is going to fly out of the truck if it is riding down the street at 60 miles an hour. Just like if you were concerned with the mining that is going on in this county or the potential mining and the dust that is produced with mining, you should be concerned with the dust that is produced by these trucks as they are driving down the street if that coal ash is dry. Even though the truck is covered, the coal ash is*

*flying ash. People are put in danger of the dust, not the hazardous material because it is not really hazardous, but the dust. Just like any dust that would be flying out of a mining operation. Those are my two main concerns. That the trucks don't dump on the side of the road, and the fines have to be heavy enough so that people will not do it, and that the dust doesn't dry so that it doesn't fly out of the trucks and contaminate people's neighborhoods and communities.*

*Judy Hogan, PO Box 253 Moncure, gave the following comments:*

*I have been privileged to hear several times our commissioners' well formulated questions to Duke Energy and Charah and their very inadequate answers. After reading their recent answers to our commissioners' questions, I felt like the child, who alone of all the spectators when the king passes by, says, "But the king has no clothes on." Duke Energy has no clothes on. What I mean is, once Green Meadows has its permits, Duke Energy has no control over what Charah does. We know Charah is careless about coal ash flying out of their trucks and rail cars. We know that Charah engages subcontractors, and if they mess up, as the wall-builders in the Asheville Airport did, Charah claims it had nothing to do with that. We know that once the ash leaves Duke's property the liability is shifted to Charah, or maybe to their sub-contractors, or even to the limited liability company Green Meadows. We know that coal ash should not be moved. We know that many people live, work, shop, and farm along the train and truck routes outlined in the Green Meadows permit. We know that if this happens, our communities in southeastern Chatham will be harmed irreparably. We don't want to be Duke's human sacrifice. We live in a democracy where we are guaranteed our right to life, liberty, and the pursuit of happiness. We are being treated like people are under a totalitarian regime. Corporations helped the Nazis exterminate six million Jews. Duke Energy is, in effect, practicing genocide on the good people in southeast Chatham and northern Lee county. We refuse to be killed off in the name of Duke Energy's corporate profits. We shall overcome. We see clearly Duke Energy's naked purpose: to kill us. We refuse to die.*

*Arlene Jackson, 5057 Cox Mill Road, Sanford, thanked the Board for researching coal ash and asking a lot of questions. She gave the following comments:*

*We have been in the dark far too long and many people are trying to enlighten us. We already know that the liners they are planning to use have never been tested to contain heavy metals. Dr. Lemley said that the Asheville airport site would be ideal to conduct a field test and gather some performance data. He will be glad to submit a proposal to do a formal aquatic hazard assessment using information from the Asheville site. This study should be done before any coal ash is brought to Chatham or Lee County. We already know that the treated leachate would put a terrible burden on our treatment plants. One plant in Marion, Alabama found that out the hard way. The EPA had to step in and prevent any more leachate from coming to them. Local residents are now suing the treatment plant because the odors now coming from the plant are so unbearable that many of them had to leave their homes. We don't want this to happen in Lee County or Chatham County or anywhere else for that matter. Now for the good news. There is a Plan B and C. Amy Dowlrump asked many times if the Lee County site did not pass the DENR rulings, where would the coal ash go? She was told there was not a Plan B, but Duke Energy has listed all its options in this document I will leave with you. First, they are going to bring the coal ash to the Moncure site. Plan B will be to bring it to Lee County if that doesn't work out. Then Plan C is to carry it to the Anson County landfill in Polkton, NC. They get \$3.50 per ton but Duke Energy chooses not to afford that. Shouldn't Lee and*

Chatham County get \$3.50 per ton instead of the \$1.50 per ton they offered Lee County? After all, most of the ash will be put on land that has never before been lined. Everyone must read closing the floodgates, how the coal industry has poisoned our water and how we can stop it. Technology exists to clean up the waste stream and energy companies dump into our rivers. This EPA rule is called Option 5 or the Zero Discharge Rule. The technology includes chemical precipitation, biological treatment and vapor compression evaporation. These improvements would cost the power company less than 1% of their total revenue. This would probably cost less than they are paying their lobbyists, all the environmental lawyers across the state they have hired, the fines they are having to pay, and their expensive good neighbor commercials. The cost to rate payers would be \$6.46 per year, less than \$0.02 a day. Our county should not be asked to store toxic waste. To do so would make us enablers and allow Duke Energy to continue producing toxic waste for decades.

Rhonda Whitley, 248 Buckhorn Road, Moncure, stated she is a physician and recently relocated to Chatham County in Moncure from Wisconsin. She was horrified to discover that the proposed coal ash pits were going to be just down the road from her. They are seeing the effects of the coal ash flying in the air, some photographs have been taken from people who live closer to it than she does, with the dust flying where the current coal ash ponds are. The health concerns with coal ash are huge. It is going to be ongoing when you look at mercury, selenium and lead and what we know those things do for birth defects and chronic pulmonary disease. It has her very worried. She is also very worried that with one hundred car trains, they are going to have limited access to emergency medical personnel. They could be stuck for forty-five minutes with no alternate route to get around. She would like to know how they are going to reroute another ten or fifteen minutes to their route to get to them, when they are on the wrong side of the tracks. She is also worried the route the trucks would go considering that is the primary route for the school buses. The children take that route twice a day and they would be getting the highest exposure to the ash. Everyone has been behind a truck before and had a rock fly out and they are supposed to be covered but often they simply aren't. If they were going sixty miles an hour it would be fine but many go much faster. She would also like to know what would happen if there were an accident with one of the trucks. What kind of spill is it considered. How long would the road be closed and what would the cleanup involve?

John Wagner, 210 Jessamine Lane, Pittsboro, thanked the Board for the caution it has taken and the action it has taken to slow things down. He gave the following comments:

This is a mess and there are so many issues we are just beginning to learn about. There are strong indications that ultra fine particles of selenium will pass through the liners. That needs to be investigated. Dr. Lemley has made an offer and that research needs to be done. If it does, the liners are worthless for protecting our ground water. Strong indication selenium will pass through the liners. I've walked around the wetlands off of Gulf Creek, there is an incredibly nice wide wetland at Gulf Creek where it merges gradually into the Cape Fear. It is an area of wildlife and there are amazing ducks and that area needs to be protected. There is a tributary that runs right through the Brickhaven dump site and runs into Gulf Creek and any runoff that goes in that direction will go into Gulf Creek and ruin that wetland. It will be toxic for the wildlife and it will be destroyed. The warranty issue, as you have probably heard two of the three companies that Duke mentioned have talked about a five year warranty. We are ticking this down such a short time into the next decade

or decades and future generations that this is a temporary solution only. It really needs to be a long term solution. The problems that our generation is passing on to the next are unacceptable. We really need to think long term. What is going to benefit the community and protect the community long term. Finally, the issue of moving it. The roads in Asheville near the site that Charah was doing are covered with ash. This is not just a PM 2.5 issue. It is not just that there is dust in the air. It is toxic dust. PM 2.5, there is amazing research coming out right now that I will send you links and information about. The birth defects, the problem pregnancies, the lung problems and the cardiac problems related to plain 2.5 is enough but when you add thallium and arsenic and lead as components of what people are breathing it is really toxic. Thank you, I appreciate your time. I encourage you to keep researching. They haven't given us time to prepare a plan and a defense.

Martha Girolami, 473 Mt. Pisgah Church Road, Apex, gave the following comments:

We are having another hearing on coal ash. Is there something we have not said or emailed you about how wrong this project is? Can we say something new today? Please remember the Chatham BOC's fight against the coal ash dump in Brickhaven and for those citizen's civil rights and property rights and right to a clean environment is a microcosm for the fight for our whole county. The North Carolina General Assembly and Duke Energy both are abusing their power on a local level. Neither has any restraint. Just ask yourselves what would you would fear if a 12 million ton coal ash landfill came to your neighborhood by force (you had no say so).  
1. You would fear that you no longer live in a Democracy. You lose the confidence in your local government since it can't protect you. You rightfully become fearful of the next Taking or Forcing that will come from Big Brother State Government and Big Brother Duke Energy.

2. You will fear the air you breathe. Think how we hate having the pollen coat everything and sift under the window sills. Well now dust is not dust it is toxic fly ash getting into your lawn, onto vegetable plants in your garden, into your windows, walking in on the dog, in the dust where your chickens peck, down into your lungs and your kids and grandkids etc .. You wonder if the asthma, cancers and coughs in your community and family are brought on by this toxic tiny dust ...impossible to confine.

3. You fear your well water is now contaminated from coal ash landfill leachate or coal ash spills. So should you shell out several hundred again for a retesting?

4. You fear first for your family's health but also for the health of the wetlands, wildlife, pets, birds, deer and all the natural environment.

5. You fear you will never be able to sell your house; you fear the damage to your local animal and organic farming; you fear the damage to local business from traffic, pollution, bad air quality, etc.

Can we trust Duke Energy to do anything right? or Fairly? When I think of Duke Energy I think bad planning, bad engineering, irresponsible, and punitive.

1. Think about the cheap and irresponsible storage of coal ash at 32 locations across the state.

2. Think about the pathetic cleanup of the Dan River

3. Think how Duke Energy reacts to any environmental fine (think legions of lawyers)

4. Think how Duke Energy reacts to any push for clean energy for North Carolina?

5. Think how punitive Duke Energy is when it doesn't get its way?

6. Think how little respect Duke Energy has shown to you as a Board and Chatham citizens. The lies when it pumped off water from its coal as pits last year into a creek.

7. Think about how Duke Energy is shifting liability for its coal ash to, by comparison, tiny companies with trivial assets and will no longer be responsible for its waste.

8. Think about how a cleaning up of leaking riverside and unlined coal ash pits has now become commercial enterprise with very confused liability and lack of

substantive funding for remediation (if possible)

9. Think of flying dust blowing off Duke Energy's Cape Fear site into Moncure last week.

10. Think of fly ash along truck routes in Asheville.

11. Think that Duke Energy, the State of North Carolina, Charah, Green Meadows will say "not my responsibility" in 30 years or whenever the site is closed and they will all walk away.

Two wrongs do not make a right. Wrong one is to store hazardous coal ash in unlined riverside pits and wrong two is landfilling 12 million tons of coal ash in Brickhaven without their consent.

## **BOARD PRIORITIES**

### [15-1214](#)

#### Discuss Duke Energy's coal ash disposal in Chatham County

Commissioner Hales stated she had been looking at the regulations for the wastewater treatment plants. The regulations this site will be under are the 2T Regulations. There is a large gap between what is allowed in the permit under the 2T regulations which says an operation is prohibited from discharging waste to the waters of the state. There still are requirements, measurements that you must not exceed. The measurements that you must not exceed are in milliliters. The regulations for wastewater treatment plants, on the other hand, are in microliters. That is a quantum difference, between millions and thousands. As the leachate is created and they are gathering the leachate, that leachate is going to end up in the surface waters of the state because it is going to a wastewater treatment plant that does not treat for heavy metals. Her main concern is for the heavy metals.

Commissioner Howard stated we are being set up to be in an indefinite position where we just can't say with any certainty that something we might otherwise have attributed to coincidence is not a consequence of coal ash. If we see a pocket of asthmatic children in the area that we can't say that it is not the coal ash. To leave a community in that position is unacceptable. She doesn't see how Duke is going to be able to give anyone any kind of assurance. This is not a problem that we are going to be able to fix in five, ten, or thirty years. This is something that people are going to feel for generations.

Commissioner Hales stated in terms of transportation and the fact there was no air quality monitoring at all in the permit. If the State is unwilling to do the monitoring she believes the County should do it or ask Duke to do it. It is not just the dust, it is also the diesel because there are going to be a lot of trucks. Truck and train traffic is also an issue. The trains at Moncure are not going to be high speed. That is an issue for school buses, for businesses and for everyone in the area. Commissioner Hales would also like to see County Health involved in baseline testing of water. Charah is only going to do the monitoring wells on the site and she believes it should go to the property line.

Commissioner Howard stated they needed to ask how they are going to be cleaning their trucks and their equipment. Where is that water going?

Commissioner Hales stated she did not get a clear answer on that. They are going to capture it, but not sure about what happens after that. They did mention that they were going to have various catchments, but she is not sure where the water is going

to go after that. They said it will be using their NPDES permit. The EPA is over the NPDES permit and they have given the State of North Carolina authority to be their agent for NPDES permits. She would like to know where that water is going to go. She stated another issue is the HPDE liner that is supposed to have a five to twenty year warranty. However in Charah's permit application they say theirs will last five hundred years. She does not know how they can make that kind of claim. She would like to know how their permitted Sedimentation and Erosion Control plan requirements contrast to what is available to Chatham County.

Vice Chair Cross stated the County has had its authority stripped by the Legislature and the Governor. The County's best hope is to have some good input at the public hearing on Thursday and it can possibly delay the process. He stated the Board needs to come up with a proposed agreement to the power company and ask them to sign it. It would include the liability of the project indefinitely and all contracts and sub-companies of Duke Power. He stated the County does not have the authority to make them sign anything but it has been said it would be in their interest to sign it and agree to some things including Chatham County doing its own testing.

Commissioner Howard stated their arrangement with Lee County didn't extend Duke's liability.

Vice Chair Cross stated Lee County is not writing Chatham County's agreement.

Commissioner Hales stated in fracking there is the concept of presumptive liability. Presumptive liability is a distance that says there will be baseline tests done and if there is a change the oil company is presumed liable. She stated the County may want to pursue that in this situation.

Commissioner Howard asked what is going to happen to the value of property in the area and property along the route.

Commissioner Hales stated she was at a meeting of the TARPO and she asked where the County's responsibility was with the roadways. NCDOT only has jurisdiction on the secondary roads. The secondary roads on the routes will be an issue and it is a taxpayer issue. One semi-truck trip is the same as 6,000 cars as far as damage to the roadway. She stated the Town of Sanford owns the wastewater treatment plant. All wastewater treatment plants produce sludge and the sludge contains high levels of trace minerals. If they add the leachate, perhaps untreated, the sludge is going to be a problem.

Chairman Crawford asked the Board to think through its options.

Commissioner Hales stated she would like to know if rezoning is an option. She asked if the County can send a letter saying it is really a solid waste landfill and not mine reclamation. She asked if the County has the authority to zone, can it zone the entire parcel as industrial and then request an environmental assessment. She asked if the County can make an argument that this is new development on this tract and require a Sedimentation and Erosion and Control Plan. She asked if this project triggers local government approval per the WS4 water supply watershed rules. She feels the financial assurances in the permit are too low and she wants to know if the County has any authority in that area.

Commissioner Howard stated the County needs to make sure it ties Duke's liability beyond Charah's.

*Chairman Crawford stated the options presented by Commissioner Hales are legal questions and he thought it might be a time to go into closed session to speak to the attorney.*

*Commissioner Hales stated she would like to add public health to the discussion.*

**A motion was made by Commissioner Howard, seconded by Commissioner Hales, to go out of the Special Meeting and convene in Closed Session for the purpose of discussing matters within the attorney/client privilege.. The motion carried by the following vote:**

**Aye:** 5 - Chairman Crawford, Commissioner Cross, Vice Chair Hales, Commissioner Howard and Commissioner Petty

## **ADJOURNMENT**

**A motion was made by Commissioner Petty, seconded by Vice Chair Cross, that the meeting be adjourned. The motion carried by the following vote:**

**Aye:** 5 - Chairman Crawford, Commissioner Cross, Vice Chair Hales, Commissioner Howard and Commissioner Petty