

MINUTES
CHATHAM COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING
JULY 16, 2007

The Board of Commissioners (“the Board”) of the County of Chatham, North Carolina, met in the Superior Courtroom, 1 Hillsboro Street, located in Pittsboro, North Carolina, at 6:00 PM on July 16, 2007.

Present: Chairman Carl Thompson; Vice Chair, George Lucier; Commissioners Patrick Barnes, Mike Cross, and Tom Vanderbeck; County Manager, Charlie Horne; County Attorney, Kevin Whiteheart; Assistant County Manager, Renee Paschal; and Clerk to the Board, Sandra B. Sublett

INVOCATION AND PLEDGE OF ALLEGIANCE

Chairman Thompson delivered the invocation after which everyone was invited to recite the Pledge of Allegiance.

CALL TO ORDER

The meeting was called to order by the Chairman at 6:05 PM.

AGENDA AND CONSENT AGENDA

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

Commissioner Barnes moved, seconded by Commissioner Lucier to approve the Agenda and the Consent Agenda:

1. **Minutes:** Consideration of a request for approval of Board Minutes for regular meeting held June 18, 2007, work session held June 18, 2007, and budget work sessions held May 24, 2007 and June 06, 2007

The motion carried five (5) to zero (0).

2. **Home and Community Care Block Grant:** Consideration of a request to accept Home and Community Care Block Grant funds in the amount of \$434,352.00 to be used per the Fiscal Year 2007-2008 budget as approved by the Home and Community Care Block Grant Committee. The budget is attached hereto and by reference made a part hereof.

The motion carried five (5) to zero (0).

3. **Contract Between Chatham County and Chatham Trades:** Consideration of a request to approve contract between Chatham Trades and Chatham County, attached hereto and by reference made a part hereof.

The motion carried five (5) to zero (0).

4. **Budget Ordinance Amendment:** Consideration of a request to amend the FY 2007-2008 Budget Ordinance to correct the fire tax rate for the West Sanford Fire District from 10.5 cents to 8.6 cents. The West Sanford Fire District tax rate was set at 10.5 cents in the FY 2007-08 Budget Ordinance. Staff has since obtained the original petition submitted to establish the district in Chatham County. This document states that the fire tax rate in Chatham

County shall be the same as the tax rate in Lee County. Lee County approved a tax rate of 8.6 cents on June 18, 2007.

	Original Budget	Amended Budget
Revenue:		
Property Tax:	27,210	22,287
Estimated Fund Balance Available	1000	1,000
Total Revenue	<u>28,287</u>	<u>23,287</u>
Expenditures:		
Contract	26,943	22,249
Commissions	1,267	1,038
Total Expenditures	<u>28,287</u>	<u>23,287</u>

The motion carried five (5) to zero (0).

5. **Social Services Board Appointment:** Consideration of a request to appoint Ms. Gloria Maldonado to the Chatham County Board of Social Services, term effective July 1, 2007 through June 30, 2010

The motion carried five (5) to zero (0).

6. **Authorization to Sign EMS Agreement:** Consideration of a request to authorize the County Manager to execute the EMS Agreement between Chatham County and First Health of the Carolinas, Inc.

The motion carried five (5) to zero (0).

7. **Economic Development Corporation Appointments:** Consideration of a request to appoint Jody Minor, Carolyn Underwood, and Randy Voller, to the Chatham County Economic Development Corporation

The motion carried five (5) to zero (0).

8. **Preliminary Plat Approval of "Cedar Mountain Subdivision":** Consideration of a request by Lewis Metty Development Company, LLC for subdivision preliminary approval of "Cedar Mountain Subdivision", consisting of 65 lots on 163 acres, located off SR #1540, Jones Ferry Road and Cedar Grove Road (public), Baldwin Township

As per the Planning Department and Planning Board recommendation, road names, "Cardinal Crest Court, Blue Jay Court, Pheasant Court, Eagles Crest, and Owls Nest," and preliminary plat for "Cedar Mountain" were granted with the following condition:

1. Prior to recordation of the final plat, the developer shall install all of the supply lines for the off-site sewage treatment systems at one time, use only gravel less systems, have one contractor complete all of the work, and install the supply lines at least 30 inches deep.

The motion carried five (5) to zero (0).

9. **Preliminary Plat Approval of "Pennington North, Phase II":** Consideration of a request by Dan Sullivan for subdivision preliminary approval of "Pennington North, Phase II, consisting of 13 lots on 78 acres, located off SR #1716, Big Woods Road, and Ocoee Falls Drive (public), New Hope Township

As per the Planning Department and Planning Board recommendation, approval of the road name "Navillus" and preliminary plat approval of "Pennington North, Phase II" were granted as submitted.

The motion carried five (5) to zero (0).

10. **Final Plat Approval of "Monterrane, Phase III":** Consideration of a request by Jesse Fearrington for subdivision final plat approval of "Monterrane, Phase III", consisting of six (6) lots on 31 acres located off SR #1700, Mt. Gilead Church Road, Williams Township

As per the Planning Department and Planning Board recommendation, final plat approval of "Monterrane, Phase III" with the removal of the private dedication of right-of-way to the Phillip Corn property was granted.

The motion carried five (5) to zero (0).

11. **Final Plat Approval of "The Hamptons, Phase I":** Consideration of a request by Windjam 23, LLC for subdivision final plat approval of "The Hamptons, Phase I", consisting of 16 lots on 41 acres, located off SR #1700, Mt. Gilead Church Road, Baldwin Township

As per the Planning Department and Planning Board recommendation, final approval of "The Hamptons, Phase I" was granted as submitted.

The motion carried five (5) to zero (0).

12. **Final Plat Approval of "The Hamptons, Phase III":** Consideration of a request by Windjam 23, LLC for subdivision final plat approval of "The Hamptons, Phase III", consisting of 23 lots on 41 acres, located off SR #1700, Mt. Gilead Church Road, Baldwin Township

As per the Planning Department and Planning Board recommendation, final approval of "The Hamptons, Phase III" was granted as submitted.

The motion carried five (5) to zero (0).

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

The motion carried five (5) to zero (0).

14. **Project Ordinance Amendment to Landfill Compliance Boundary:** Consideration of a request to approve the amendment to the Project Ordinance Concerning the Landfill Compliance Boundary

The motion carried five (5) to zero (0).

END OF CONSENT AGENDA

The Chairman explained that there would be a presentation by Allison Weakley, Chair of the Environmental Review Board, after the public hearings.

PUBLIC INPUT SESSION

Francie Henville-Shannon, 39521 Glenn Glade, Chapel Hill, NC, voiced concern with regard to the availability of liquor-by-the-drink in Chatham County. She stated that when she came to the County five years ago from California, she was surprised to see the ABC Stores as she thought that they were "baby" stores; that she soon found out that it stood for Alcoholic Beverage Control; that liquor had to be bought from those stores; that in

February, she and her husband celebrated their 30th wedding anniversary with friends across the County line because of the availability of liquor-by-the-drink; that in thinking about economic development for the County, she would think that some of the large restaurant chains would make a lot of their income by selling liquor-by-the-drink; that if the County wants restaurants such as Chili's, On the Border, Outback, etc., she feels that liquor-by-the-drink is needed; and that she is unsure of the process, but would recommend consideration of this matter.

Commissioner Cross stated that he could answer the question as the liaison to the ABC Board. He stated that the Board of Commissioners would have to vote positively to put it on the ballot for the referendum. And that it could be discussed at a later date.

PLANNING AND ZONING

Public Hearings:

Public Hearing on Conditional Use Rezoning from RA-40 to Residential/Agricultural to CU-B1 Business District: Public hearing to receive public comments on a request by Andrea Snyder for a conditional use rezoning from RA-40 Residential/Agricultural to CU-B1 Business District on approximately 1.137 acres, Parcel #82736 located at 587 Old Farrington Road (SR #2053), Williams Township

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

Public Hearing on Conditional Use Permit: Public hearing to receive public comments on a request by Andrea Snyder for a conditional use permit for a beauty salon on approximately 1.137 acres, Parcel #82736 located at 587 Old Farrington Road (SR #2053), Williams Township

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

BOARD OF COMMISSIONERS' MATTERS

Public Hearings:

Financing of a Nonprofit Facility with Revenue Bonds: Public hearing to receive public comments on the financing of a nonprofit facility with revenue bonds to be issued by the Virginia Small Business Financing Authority. The public hearing is held at the request and for the benefit of Woods Charter School Company.

The County Attorney explained the specifics of the public hearing on the financing of a nonprofit facility with revenue bonds to be issued by the Virginia Small Business Financing Authority. He stated that neither the State of North Carolina nor any of its political subdivisions, including the County, will have any obligation whatsoever, directly or indirectly and legal or otherwise, with respect to the Tax Exempt Bonds, the costs of their issuance, or the payment thereof; that the County will act only to hold the public hearing and approve the location of the facilities to be financed with the Tax Exempt Bonds within the County limits; that in addition, the Tax Exempt Bonds will not pledge the faith and credit or the taxing power of the Commonwealth of Virginia or any of its political subdivisions, but will be payable solely from the revenues derived for such purpose from the School, and the security therefore; and that the Issuing Authority has no taxing power.

There was no one who wished to make public comments.

The Chairman closed the public hearing.

Commissioner Lucier moved, seconded by Commissioner Vanderbeck, to approve the public hearing regarding the issuance of certain tax exempt revenue bonds for the benefit of Woods Charter School Company. The motion carried five (5) to zero (0).

Rural Operating Assistance Program: Public hearing to receive public comments on the FY 2007-2008 Rural Operating Assistance Program and consideration of a request to approve the recommendations of the Transportation Advisory Board for allocation of ROAP funds

Helen Stovall, Director of Chatham Transit Network, explained that the North Carolina Department of Transportation Public Transportation Division (NCDOT/PTD) has combined their three operating assistance programs into one application process; that these three programs are Rural General Public (RGP), Elderly and Disabled Transportation Assistance Program (EDTAP), and the Work First Transitional/Employment Transportation Assistance Program; that the EDTAP funds are used to provide additional transportation services for the elderly and disabled, exceeding the quantity of trips provided prior to receipt of the funds; that the Work First Transitional/Employment Transportation Assistance program supports general employment transportation needs and transitional transportation needs of Work First participants after eligibility for cash assistance has concluded; that the 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.

Ms. Stovall stated that county governments are the only eligible applicants for these funds; that it is the responsibility of the County Commissioners to sub-allocate and distribute the funds to local agencies; that the NCDOT/PTD has allocated a total of \$75,023 in Rural General Public (RGP) funds to Chatham County for FY 2007-2008; that this includes both regular formula allocation funding and supplemental funds available this year; that the RGP funds can only be sub-allocated by the County to the Section 5311 Community Transportation System which is Chatham Transit Network (CTN); that these funds require a local match which is provided to CTN by United Way of Chatham County; that the Work First Transitional/Employment funds can be allocated to either Chatham Transit Network or Department of Social Services; that in Chatham County, Chatham Transit Network has always received these funds; that the total amount allocated for Chatham County in both formula funding and supplemental funds is \$12,894; and that with the Job Access Reverse Commute project having ended, the additional supplemental funds will help greatly in supporting employment transportation in Chatham County.

She explained that the EDTAP allocation for the County including this years supplemental funding is \$80,475; and that the following recommendations are being made for the sub-allocation of EDTAP funds:

Chatham County Council on Aging	\$59,800
Chatham County Group Homes, Inc.	4,150
Chatham Transit Network	<u>16,525</u>
Total	\$80,475

The allocation to Chatham Transit Network will be used in the following manner:

Chatham Trades	\$4,350
Central Carolina Community College	2,500
Chatham Child Development Center	1,000
Chapel Hill Training Outreach Project	3,000
Chatham County Together	1,675
Chatham County Group Homes	1,000
Chatham County Dept. of Social Services	2,000

Club Insight	<u>1,000</u>
Total	\$16,525

The Chairman closed the public hearing.

Commissioner Vanderbeck moved, seconded by Commissioner Lucier, to approve the sub allocation of ROAP fund as presented by the Chatham Transit Network Director, a copy attached hereto and by reference made a part hereof. The motion carried five (5) to zero (0).

ENVIRONMENTAL REVIEW BOARD RECOMMENDATIONS

Allison Weakley, Chair of the Environmental Review Board, explained that at the request of the Board of Commissioners, the Environmental Review Board has spent the last three months working very hard to provide the Board with riparian recommendations that, if implemented, will provide much needed protection of the County's water resources. Ms. Weakley's presentation, in its entirety, is as follows:

Recommendations for Section 304 of the Chatham County Watershed Protection Ordinance, Presentation to the Board of Commissioners, *By Allison Weakley, Chair, Environmental Review Board, 16 July 2007*

As requested by the Board of Commissioners in March 2007, the Environmental Review Board made recommendations to Section 304 of the Chatham Co. Watershed Protection Ordinance.

Our recommendations have been developed based on the language presented by the County for public hearing in January 2007, with the incorporation of the collective knowledge of and research by the Environmental Review Board, the integration of a comprehensive list of scientific and regulatory resources, staff recommendations, public input, and many hours of discussion.

We have spent the last three months working very hard to provide you with riparian buffer requirements that, if implemented, will provide much-needed protection of the County's water resources.

The ERB has:

- Strengthened the original language proposed at the public hearing in January 2007
- Clarified the methods used to identify streams and wetlands (including ephemeral streams)
- Included 100-yr. floodplains in buffers
- Buffered wetlands, seeps and springs
- Incorporate techniques to mitigate impacts

Purpose and Intent:

As we worked on our recommendations, the Environmental Review Board realized the need for us to determine the Purpose and Intent. Planning staff also made a recommendation that Purpose and Intent be drafted.

The Purpose and Intent of riparian buffers proposed are to:

- (a) Ensure environmentally sound use of the County's water and land resources
- (b) Protect the drinking water, recreational, economic, and human health values inherent in well managed water resources
- (c) Preserve the biological integrity of riparian and aquatic ecosystems, and
- (d) Help maintain forested riparian buffers throughout the County

Forested riparian buffers:

Included in our Purpose and Intent is an outline of the important functions of riparian buffers. As you can see, riparian buffers serve extremely valuable functions with important ecosystem and economic benefits.

Forested riparian buffers are especially important because they fulfill critical ecosystem functions:

- Reduce pollutants and filter runoff
- Improve air quality and lower ozone levels
- Maintain stable water flows
- Help sustain natural channel morphology
- Help maintain water and air temperature by providing shade
- Stabilize stream banks
- Provide most of the organic carbon and nutrients necessary to support aquatic food webs
- Provide sources of sufficient large woody debris for stream channels
- Help reduce flood severity
- Facilitate the exchange of groundwater and surface water,
- Provide important wildlife habitat, and
- Protect riparian plant communities.

Definitions of Terms:

Also as part of our recommendations, we realized the need to clarify terms used, so we drafted this list of definitions (see Definitions of Terms).

Section 304: Riparian Buffer Areas Required.

The Environmental Review Board strengthened the original language by eliminating use of USGS topo maps or streams shown on soil surveys – neither were created to identify streams for regulatory purposes. We must rely on field identified streams and wetlands, which is normally done during development process anyway (or should be; subdivision regulations currently require identification of all water bodies, for example). The Environmental Review Board recommends that stream determinations be made by qualified personnel, and that determinations be reviewed by the County. The Board may want to add a clause to allow County determinations to be MADE by the County (see also the proposed language, which referred to “local government studies.” Making stream determinations independently is something the County should aspire to do.

The ERB recommends that riparian buffers:

- Be measured horizontally (which helps take slope into consideration) from top of bank for perennial and intermittent streams, and include the stream origin.
 - 100' minimum buffer around perennial streams; 50' minimum buffer around intermittent streams
 - Original language used USGS topographic maps, and didn't specify measurement or inclusion of stream origin
- Include the full extent of the 100-yr floodplain.
- Be required around ephemeral streams beginning at the point draining at most 4 acres. A 40' buffer on ephemeral streams is recommended.
 - Original language was 30' on streams that drain 10 acres, 50' on those that drain 25 acres. Drainage areas of 10 acres in the Carolina Slate Belt are often intermittent or perennial streams
- Extend a minimum 50' buffer around wetlands, measured from the delineated boundary.

- Added to account for important functions of wetlands, including water quality improvement, and groundwater recharge
- Extend a minimum 30' around springs and seeps.
- Added to account for importance of these features for water quality.
- Should be clearly marked before construction activities begin.
- Be doubled in cases where 25% or more of the canopy trees have been harvested within the last 7 years
- Provides incentive not to harvest trees within buffer just prior to development.

Drainage areas:

As I just mentioned, the original language proposed for ephemeral stream buffers required buffers for ephemeral streams that drained 10 acres or more.

- Original language proposed for ephemeral stream buffers at January 2007 public hearing:

At least fifty (50) feet along each side of all unclassified streams shown on the Chatham Soil Survey maps and having a drainage area of more than twenty-five (25) acres.

At least thirty (30) feet along each side of all unclassified streams shown on the Chatham Soil Survey maps and having a drainage area of between ten (10) acres and twenty-five (25) acres.

- Our recommendation:

At least forty (40) feet around ephemeral streams, not otherwise identified as an intermittent or perennial streams, beginning at the point draining at most 4 acres.

The recommended drainage area is based on:

- DWQ research and input
- ERB research (Herndon Creek and Pokeberry watersheds)

The 4-acre threshold can be easily determined using LIDAR data, enabling easier field-identification of streams and use of this drainage area as a screening tool (Raj can expand on the use of these data for screening purposes).

DWQ research on stream origin contributing drainage area from streams in the Carolina Slate Belt (Neuse River Basin):

Here you see the preliminary results of research DWQ has conducted on stream origin contributing drainage areas from streams in the Carolina Slate Belt. [Source: Periann Russell, Division of Water Quality. 29 May 2007.]

Flow Duration	Minimum	25%	50%	75%	Maximum	Mean
Intermittent	0.36	5.19	7.64	18.11	322.27	19.75
Perennial	0.72	10.89	20.53	40.49	328.28	38.05

These data show that stream drainage areas for *intermittent streams* in the Carolina Slate Belt are frequently less than 10 acres. In northeastern Chatham County, *perennial streams* often begin at less than 10 acres (which I'll expand upon in a minute).

DWQ (2006a) has also found, in studies of intermittent streams in the mountains and piedmont, that drainage areas ranged from 2-25 acres, and that the mean for an intermittent stream system that originated from a spring was 4.2 acres, and a mean for a stream that originated from overland flow was 13.9 acres.

Herndon Creek Watershed:

ERB members (Raj and I) visited sites in Herndon Creek watershed with John Dorney, DWQ, who developed the stream identification methodology for the State.

We found both intermittent and perennial streams with origins of 4 acres fairly common.

The protection of headwater streams is critical, given that the majority of the stream length in a watershed is in small order streams, and impacts are felt far downstream (and cumulatively) if they are not protected.

Pokeberry Creek Watershed:

Streams in the Pokeberry Creek watershed were also mapped and ground-truthed, and the results presented at our 21 June ERB meeting.

Shown here are ephemeral drainages that formed at 2-3 acres (P17), perennial streams that formed at 5-6 acres (P18).

In this sub-basin of Pokeberry Creek, ephemeral streams were found to occur at 3-4 acres and at 5-10 acres (for those streams with previous land disturbance that altered hydrology), and 4-5 acres for perennial streams.

(B) Allowed Structures and Uses:

The ERB recommends modifications of the originally proposed language in section (B) to provide clarity and extra protection relative to stream and utility crossings. We recommend utility crossings not be allowed across perennial streams unless no alternative exists, and that – if necessary – they be attached to bridges or must be placed under riparian corridors. We also recommend that crossings of intermittent streams only occur when streams are dry.

These recommendations based on the well-established WRC (2002) techniques to avoid or mitigate impacts to aquatic resources.

Though more sampling is needed across the County, we feel confident that 4 acre drainage areas are a good screening threshold for ephemeral streams; stream must be still be field identified, however.

I should also mentioned that DWQ is working on defining ephemeral streams using their current stream identification system, but that work is not expected to be completed until this Fall.

(C) Prohibited Structures and Uses:

Much of the language within Section C, Prohibited structures and uses, remains the same as the original language. We removed bicycles from paved trails, and strengthened the original language.

The ERB recommends these specific structures and uses be prohibited within riparian corridors...

- New wastewater treatment and disposal components
- Toxic or hazardous waste or other contaminants (such as pesticides)
- Landfills
- Stormwater features
- Motor powered vehicles (except for the purpose of maintaining utility corridors and providing emergency services)

- **(D) To avoid a loss of effectiveness in protecting streams, the stream buffer shall remain in native, forested, undisturbed vegetation, except as provided below.**

The language in section D has been modified only slightly. The ERB did eliminate the original D(1), which allowed clearing and grading and other land disturbance within the buffer as long as it was re-vegetated, removed.

(D)2 – Crossings:

The ERB recommends very specific restrictions on stream crossings, in large part based on recommendations by the WRC (2002) to avoid and mitigate impacts to aquatic resources. These restrictions include:

- No fill within 100-yr floodplain
- No bents within bankfull area of perennial streams (except where necessary on the Haw and Deep Rivers)
- Bridging is the preferred crossing for perennial streams (with bankfull width greater than 10 feet).
- Specific suggestions for use of culverts for crossings.
- Provision that fill cannot restrict overbank flows during 25yr storm event
- No direct discharge of runoff into riparian buffers

(D)3 – Trails:

There was much discussion regarding whether or not to allow trails within riparian buffers. Because the ERB feels strongly that the purpose and intent of riparian buffers is to protect water quality (and buffer integrity), we recommend that trails only be allowed within buffers with an approved Management Plan, the important components of which we have outlined.

Trails may be allowed within buffers upon proper submission, review, and approval of a Management Plan by the ERB (and Watershed Review Board). The Plan should include, at a minimum, the following:

- a. Existing site conditions (including the status of the protected area)
 - b. Needs and purpose (including intended use)
 - c. Trail location based on site survey
 - d. Design details
 - e. Justification
 - f. Responsible entity for design, implementation, maintenance and access control
 - g. Short and long-term impacts (e.g., future trail relocations) should be identified
 - h. Proposed mitigation
-

During our deliberations, the ERB was especially concerned about long-term impacts of trails in buffers.

A number of folks from the trails community attended subcommittee and full ERB meetings and gave input along the way. My impression is that they feel that these recommendations are perhaps too restrictive. I want to make clear that the ERB are in favor of trails and other appropriate recreational uses; we feel that recreation is of great economic benefit to Chatham, especially given our outstanding natural resources in which to recreate.

However, this restriction on trails in the buffers applies only to new trail construction, only applies to new development, and is meant to achieve the objective that trails be allowed with appropriate management plans to assure that they will not have negative impacts on the condition of our streams and the integrity of the buffers.

Specific Criteria for Trails in Buffers:

The ERB also outlined, as part of our recommendations, specific criteria for trails in the buffer that we felt were needed for protection of the buffer and water quality.

Most notably, we felt that intrusion into the buffer should be limited, impacts should be avoided/mitigated, and for certain uses trails should be allowed only in the outer 1/3 of the buffer. Trails should not parallel streams for significant distances, and wetland areas or areas prone to compaction or erosion should be prohibited.

Other modifications (sections E to J):

(E) is a modified version of the original language. Allowing natural regeneration and supplementing with only plants native to Chatham to restore the buffer should be allowed provided that soil disturbance is minimized.

(F) requires that drains and ditches be restored as part of development activities to prevent concentrated flow that may have occurred with past land uses within the buffer.

(G) allows for removal of known invasive species from the buffer (same as original language, but added web links to list of species).

(H) allows water oriented recreational facilities with approval from the Watershed Administrator and review of the ERB. (same as original language, but we added "review from the ERB".)

(I) requires that all development plans that impact buffers to be reviewed by the ERB, WRC, and NHP. It also requires that GIS data layers of delineated streams and buffers be submitted to the County.

(J) ensures the person responsible for "environmental commitments" to the County be identified and contact information provided.

GSD Tracking System:

Finally, (K) outlines a tracking system for "environmental commitments" in the form of green sheets documents (GSDs). GSDs would help the County know when various activities are initiated (groundbreaking, installation of erosion control measures, stormwater measures, wastewater components, and work within riparian corridors. All project managers and contractors who work on a development project would be aware of their responsibility to comply with GSD requirements.

GSDs are used in tracking Dept. of Transportation projects and can greatly increase awareness among folks working on a development site. GSDs also give the County the information needed to track construction activities with the potential to have impacts on water quality on a site.

A provision is also included to allow the BOC, ERB, PB and staff access to project sites to inspect for compliance of the approved GSD requirements.

References:

The ERB recommendations are based on extensive review of established research and references, some of which is shown here.

We also considered riparian buffer protection regulations of neighboring jurisdictions that have tackled similar watershed protection issues relatively recently, such as stream identification, including Orange County and Chapel Hill.

Other Considerations:

There are a few items that came up during our discussions that warrant further consideration, if not in the watershed protection ordinance, then perhaps elsewhere in county policy. Other items to consider include:

- Increase stream buffers for areas of important wildlife habitat (minimum 300' riparian buffer recommended)
- Increased buffers for high quality wetlands as determined by NC Wetland Assessment Method (NC WAM, which will soon be used by DWQ for mitigation of impacts to wetlands)
- Greater protection for water supplies?
- Staff position to administer and enforce watershed protection regulations

Future Work Suggested for the Environmental Review Board:

- Review the entire Watershed Protection Ordinance – impervious surface thresholds, fees and enforcement, etc.
- Review Erosion and Sedimentation Control Ordinance
- Consider Stormwater Ordinance
- Overall watershed planning

Chairman Thompson praised the efforts of the Environmental Review Board and thanked Ms. Weakley for the presentation. Board members echoed the same sentiments.

Commissioner Lucier asked that the County Manager look into ways that the Environmental Review Board can be provided some staff assistance stating that they had done a lot of work. He asked the County Attorney if another hearing needed to be held on the substantial changes made since the first public hearing.

The County Attorney recommended holding a new public hearing on the matter.

Ms. Weakley pointed out that a lot of the changes that were incorporated into the Environmental Review Board's final recommendations come from the Wildlife Resources Commission memo which was presented at the public hearing.

Commissioner Lucier moved, seconded by Commissioner Vanderbeck, to hold public hearing at the August 20, 2007 Board of Commissioners' meeting on the recommendations to the Watershed Ordinance.

Commissioner Vanderbeck explained to those in the audience that, in anticipation of the public hearing, there is a new County website that will show the recommended changes to the ordinance. Commissioner Lucier stated that both the recommendations and the criteria recommended by the Environmental Review Board trigger Environmental Assessments for new developments and that information will also be on the website.

Chairman Thompson called question. The motion carried five (5) to zero (0).

PLANNING AND ZONING

Sketch Design Approval of "Subdivision of Barber Lands": Consideration of a request by Sears Design Group, P. A. on behalf of Wade Barber, Jr. for subdivision sketch design approval of "Subdivision of Barber Lands", consisting of 48 lots on 59.54 acres, located off, SR #1859, South Langdon in Fearington, Williams Township

Wade Barber stated that this property is a 60 acre tract of land that he calls the Lizzie Henderson land because Mrs. Henderson lived there all of her life until she died in the late 1950s; that he bought the property in 1961; that the history is relevant for a couple of reasons: 1) There is some discussion to the property; that when he acquired the property, the primary road that Mrs. Henderson used to access the property went across the Jesse Fearington farm; that for many years, the access has been through the Fearington land; that that led to expanding Fearington PUD almost twenty years ago; 2) None of the other thousand acres to which they are talking about providing access go through Fearington. He stated that if a public road connection is made through his property, it will be a public road connection; that it runs onto the McLean property; that there is at least a thousand acres of undeveloped land back there; that approximately one hundred or more acres of land called the Big Hole which is zoned industrial; that if they acquire the McLean property or successors, they can connect and go through Fearington without any subdivision approval; that if the County decides to dedicate that as a public right-of-way, it can be used for industrial purposes or many other purposes without the Board's approval; that in 1961, it was a common, publicly-used road that went from Mt. Gilead Church Road across several properties to the McLean property and other properties; that in 1962, Mrs. McLean reached an agreement with AT&T by selling approximately sixty acres of her land and agreed to establish a private easement through there; that one of the problems is because she sold action that permitted her access at that time; that with regard to recommendations, they are agreeing to maintain one hundred foot buffer along the common boundary of Bradford Place; that he has voluntarily agreed to that; that some people have suggested that he provide a public utility easement and allow for emergency road access; and that there be an access for emergency vehicles across the property.

Uzal Martz, 1388 Bradford Place, Fearington Village, Pittsboro, NC, stated that he was speaking on behalf of the Homeowners Associations of Bradford Place and Bush Creek plus the residents of Fearington Village. He stated that they support the Planning Board's decision to recommend the Barber Sketch Design without providing access to the McLean tract; that with the chairman's approval, he'd like to have the Fearingtonians here hold up their hands to be recognized; that the Board has been well served by the open and constructive process they have helped foster in the Planning Board; that everyone wanting to speak was able to provide their inputs which were thoughtfully deliberated, as evidenced by the Board's questions and site visits; that more than 861 Fearingtonians signed a petition in opposition to the staff recommendation to provide a public right-of-way to McLean, over 200 personally attended the Board's meeting July 10th, with five of them making presentations; that the Board's action reflected their reasoned balancing of the concepts behind connectivity and its impacts on the affected adjoining properties; that they concluded that the proposed access road was neither "necessary," nor worthy of the significant damage which funneling 2000 construction and resident vehicle trips a day from the McLean land would cause the economic and character considerations of Barber and Fearington Village; that the Board's actions concluding that such access was clearly not "necessary" fully complies with the pertinent provisions of the Subdivision Regulations which state "Where necessary... to provide ... connectivity to large tracts with future development potential, proposed public streets shall be extended by dedication of a public right-of-way to the boundary of such

property."; that the record clearly indicates that this is not an instance where the term "necessary" has any bearing; that there are five points of access to McLean, the three private cited by staff and two public ones on record through the Harris Tract and the Homestead at Jordan Lake; that given these five avenues of access, and the stated convictions of McLean's counsel and Planning Staff concerning the availability of "adequate additional access," the Board correctly determined that it is not "necessary" for the McLean's to have any access at all through the Barber land.

Mr. Martz stated that the Board's action clearly concluded that the intent of Connectivity is not to cause significant damage to the economic viability of the Barber development; that as this diagram shows, the funneling of potentially 2000 vehicle-trips a day through the Barber's development would pass eighteen homes and the community park on a residential street, without curbs or sidewalks to separate kids playing on the lawn, biking or walking to the Park; that the untenable impact of this traffic on life and limb is no more clearly envisioned than by this photo of a similar residential street in Bradford Place; that the inclusion of a possible future public road connection on marketing materials would deter potential buyers with a devastating reduction of the economic viability of this development; that this is akin to an eminent domain proceeding for the benefit of a private developer, appropriating the economic value of Barber land without due process of condemnation proceeding; that finally, the Board's action clearly concluded that the intent of connectivity was not to cause significant damage to the safety and quality of life in an existing community; that Fearington Village is a model development with a twenty-six year history of maintaining a rural village environment with roadways safe for walkers, bikers, animals and children; that contrary to a consideration of connectivity to prevent traffic congestion, the funneling of 2000 vehicle trips a day through Barber land, down South Langdon and out Fearington roads to Highway #15-501 would cause traffic congestion; that as the Fearington Road Safety Committee noted, the 25 mph Fearington roads were not designed to service such an influx of vehicles; and that in conclusion, they ask the Board to affirm the Planning Board's considered action recommending this sketch plan without a public right-of-way access to McLean property, confirming that it is neither necessary, nor the intent of connectivity to ruin the character and property values of adjacent communities for the economic convenience of the owner of an undeveloped property with other avenues of access.

Mr. Martz addressed questions from the Board and citizens.

Jennifer Andrews, Attorney, on behalf of the McLean Family, she supports the Planning Department's recommendation granting sketch design approval of the referenced subdivision and that they are also very much in support of the conditions regarding the dedication of public right-of-way access for road connection utilities to the McLean Family lands.

Ms. Andrews stated that 1) The County policy of requiring/encouraging stubs to undeveloped tracts provides for economy of services and safety. 2) Not providing for future connectivity contributes to sprawl and inefficiency of traffic flows. 3) The long held policy of promoting interconnectivity, if abandoned, robs the Planning Department and Board of the ability to control the positive flow of traffic, require primary and secondary accesses when planning projects and encourage good sustainable growth.

She stated that in considering her additional comments, she hopes the Board will be guided by the language in the Chatham County Subdivision Regulations which requires the stub recommended by planning staff. Section 6.2 B (3) states, "Where necessary to provide public street access to adjoining landlocked property or connectivity to large tracts with future development potential, proposed public streets shall be extended by dedication of right-of-way to the boundary of such property."

Additional points she asked the Board to consider are as follows:

1. There is no pending plan or application for development of the McLean Family property. When/If such a plan is submitted, it will likely be evaluated under substantially

different subdivision or conditional use permitting rules than what we work under today. It will be the option of the standing Board to determine the nature of the use of the stub from the Barber lands. Not having the option because the stub was not required is poor planning and wholly inequitable in light of this County's history and the current ordinance which requires the stub.

2. Dan Sears' June 15, 2007 letter on behalf of Judge Barber, rejecting the roadway connector to the McLean property makes incorrect assertions. There simply is no present congestion, impact or destroying of the Barber Lands or Fearington if the recommendation of Planning Staff is followed. Currently, there is not even one resident on the McLean property. Mr. Sears and Judge Barber believe that support for their subdivision hinges on the rejection of a connection. We rather hope that the need and desire for connectivity be evaluated on the merits. Dedication of a connector simply gives the Board the ability to plan for the future.

3. Judge Barber stated for the Planning Board's consideration his thankfulness in having the foresight to seek a connection between his lands and RB Fitch's years ago when Fearington was approved. Following this line of reasoning should prompt us to agree that the McLean Family only seeks (and is due) that same consideration. We assert that the McLeans are offered this same protection by our Ordinance. We simply ask for the same benefit provided Judge Barber- the county's foresight and the protection that requiring interconnection provides for all citizens and future citizens.

4. Mr. Sears mentions other access to the McLean tract via Big Hole Road, The Legacy or The Preserve. These connections are dubious and have no potential because they are connections to private roadways. The Barber Lands subdivision proposes paved public NCDOT roads and as such should be available for the public, to include users of the McLean property.

5. Many rural counties struggle with access issues and connectivity - other developers have been required to provide access to tracts where the need was less than 'necessary' as the ordinance states. The McLean Family's need is absolutely necessary and we ask that County consistently apply its ordinances and policies. As we believe that landowners should be treated equitably, leaving the McLean tract behind and landlocked flies in the face of what has been a long standing planning philosophy in Chatham County.

6. While the McLean Family appreciates the position of the residents in Fearington - these positions are not supported at law or in equity and are not supported by the history of this County's position with other similarly situated landowners nor the Ordinance that requires this connection. She has studied the correspondence from the Bush Creek Townhomes, Inc. Task Force and Fearington Homeowners Association - the comments regarding changes in the quality of life, impact on the quiet rural village of Fearington and loss of a sense of safety are compelling, if they came to pass. However, as stated above, no traffic will come from the McLean tract for the foreseeable future. Not only does the moratorium ordinance preclude the concerns but so does the fact that the connection, if provided, would be most suitable for a secondary access. We assert that future good planning could insure that no negative impact results to the folks in Fearington Village.

Ms. Andrews stated that they hope that the Board sees the wisdom in providing for future planning and agrees that the long held policy of promoting interconnectivity provides the County with a necessary tool in promoting options for optimal development. As such, they implore the Board to act in favor of providing a 60' wide public right-of-way dedication to the boundary of the McLean property in conjunction with approving the sketch design of the Subdivision of Barber Lands.

Ms. Andrews addressed questions from the Board and citizens.

Commissioner Barnes stated that he would like to have input from the Public Works Director as to whether a water stub would be worthwhile. He stated that he would be inclined to go with the Planning Board's recommendation.

Commissioner Vanderbeck stated that the Board has 45 days from the evening's meeting in order to obtain the information.

Mr. Barber stated that he would have no objection to a condition that would provide a stub if the Public Works Director recommends it.

Commissioner Cross recommended having a water line with a connection.

Arthur Deluca stated that he had flushed many dead-end valves in his career and that the line will have to be flushed on a regular basis.

As per the Planning Board recommendation, Commissioner Barnes moved, seconded by Commissioner Cross, to approve the sketch plat without the public dedication of right-of-way and public utility easement or the 45 foot wide emergency access to the McLean tract and grant sketch design approval with the requirement that an environmental impact assessment be prepared and reviewed by the Environmental Review Board prior to preliminary plat submittal and with the recommendation that the applicant provide a 100 foot buffer along the common boundary with Bradford Place. The motion carried five (5) to zero (0).

BREAK

The Chairman called for a short break.

Sketch Design Approval of "The Knolls at Fearington": Consideration of a request by Sears Design Group, P. A. on behalf of Fitch Creations for subdivision sketch design approval of "The Knolls at Fearington", consisting of 30 lots on 20 acres, located off SR #1817, Millcroft and SR #1859, South Langdon Place, Williams Township

Commissioner Lucier asked why the Planning Board had recommended an environmental impact assessment.

Sally Kost, Chair of the Planning Board, stated that the Environmental Review Board has been coming up with triggers as to when to do an assessment and that one of those triggers is that the subdivision be adjacent to natural heritage areas.

Commissioner Cross stated that the request for an environmental impact assessment is based on a draft requirement and asked the County Attorney as to the legality if it can be required.

Commissioner Lucier asked the applicant if he would volunteer to do an environmental assessment. The applicant stated that they had rather not do an assessment; that they needed the guidelines for the assessment; and that they had not seen those as yet.

The County Attorney stated, since the Board had not formally adopted the Environmental Review Board recommendations, it cannot be required at this time. He stated that the Board can highly suggest that the developer agree to it, but that it can not be required at this point in time.

Ms. Kost stated that the Planning Board highly suggested it as well.

Allison Weakley stated that she thought it was within the Board's purview to request one given that it is in the Subdivision Regulations.

Commissioner Lucier stated that Subdivision Regulations 5.2A says that all potential negative environmental impacts need to be identified and for those potential negative impacts, mitigation steps need to be proposed to address them; that the current subdivision ordinance requires this at preliminary sketch design; that what some developers have done over the last several months when coming for sketch design approval, have said that they will prepare an environmental impact assessment prior to submission of preliminary; that the

environmental impact assessment would be reviewed by the Environmental Review Board, and changes suggested in the preliminary plat design and then they would be submitted for preliminary plat approval at that time. He stated that there is a process that has been used for other developments with which the applicants seem comfortable.

The Planning Director cautioned that the County does not have the prerequisite threshold criteria established and adopted so that it can not legally require an assessment be done.

Chairman Thompson stated that they could give the County Attorney some time to review this matter further before the Board has to make a decision.

As per the Planning Department recommendation, Commissioner Cross moved, seconded by Commissioner Barnes, to grant sketch design approval of "The Knolls at Fearington" as shown on the revised sketch map, dated June 15, 2007 without the environmental impact assessment.

Commissioner Lucier stated that he would prefer to defer this matter until it is researched with regard to setting legal precedence on challenges to the language.

After further discussion, the Chairman called the question. The motion carried three (3) to two (2) with Commissioners Lucier and Vanderbeck opposing.

Sketch Design Approval of "Norwood Felton Subdivision": Consideration of a request by Harrison Pond, LLC on behalf of Kenneth E. Norwood, Mary Ann Norwood, Gail N. Felton and John Felton for subdivision sketch design approval of "Norwood Felton Subdivision", consisting of 51 lots on 106 acres, located off SR #1532, Mann's Chapel Road, Baldwin Township

As per the Planning Department and Planning Board recommendation, Commissioner Barnes moved, seconded by Commissioner Lucier, to grant sketch design approval of "Norwood Felton Subdivision" as submitted and approval of the development schedule. The motion carried five (5) to zero (0).

Preliminary Approval of "Arcadia": Consideration of a request by ENT Land Survey, Inc. on behalf of Bruce Curtis for subdivision preliminary approval of "Arcadia", consisting of 13 lots on 57 acres, located off SR #1536, Lamont Norwood Road, Baldwin Township

As per the Planning Board recommendation, Commissioner Lucier moved, seconded by Commissioner Cross, to grant approval without the stub-out with the understanding that the ephemeral stream would be protected with 30 foot buffers on each side and to grant approval of the road names "Arcadia Lane" and "Dorian Drive". The motion carried five (5) to zero (0).

Request to Rezone Acreage from Heavy Industrial to Residential Agricultural: Consideration of a request by Chatham County to rezone 49 parcels from Heavy Industrial to Residential/Agricultural

Commissioner Barnes reiterated that the Planning Board, Planning Department, and the Economic Development Corporation recommended approval of the rezoning. He stated that he doesn't see any reason to not approve the rezoning request.

As per the Planning Department and Planning Board recommendation, Commissioner Barnes moved, seconded by Commissioner Cross, to approve the rezoning request.

Commissioner Vanderbeck stated that the Economic Development Corporation's (EDC) minutes recommend that the land be rezoned heavy industrial to what the County Planning Board deemed appropriate; that the Economic Development Director was not present at the meeting and later told him that due to the fact that the Land Use Plan is

presently being updated and an economic development consultant had been hired to come up with a plan, she felt that it would be beneficial to the County to go through the process on a case by case basis; that the Board would get a chance to hear from the people involved who wish to be a part of the process; that he believed that the EDC Director concurred with him on the process; and that he would like to see this matter go through the process.

Commissioner Cross stated that they had been through the process for five months; that it has the recommendation of the EDC by a vote of 11-0; that the last application was a life-time resident who cut off one to one and one half acres for his daughter to build a home and was charged \$500 per acre for the application and \$3,000 in attorney's fees; that this is unfair to the citizens of Chatham County; that this land was zoned prior to the regulations requiring notification of changes; that most folks in that area found out that their land was zoned heavy industrial when they tried to do something with it; that there is absolutely no reason to delay the issue further; that as the commercial corridor is developed, it will still leave the option to apply for whatever they wish to use the land plan; that if there is an allocation that the County would like to see in their community, then it can be done; and that this property has been sitting idle for eighteen years with no applications.

Commissioner Barnes stated that he felt that the Board needed to listen to the wishes of the people who live there; and that it is their land, homes, and families.

Commissioner Lucier stated that the strongest argument for rezoning the property residential is that in 1990, the residents didn't have much of an opportunity to react to it; that he got some correspondence regarding recommendations of looking at something in between heavy industrial to business district B1 and B2; that the Major Corridor Ordinance is set to be developed within the next six months to a year; that will be 1,500 feet down Pea Ridge Road if that intersection is deemed a commercial node; that there will be an opportunity for commercial development in that area; that he would be very surprised if that is not the case; that it seems like the perfect area for commercial development; that his biggest concern is that it borders the Haw River and it should be RA-5, not RA-40; that the area north across US Highway #1 is already RA-5; that on the west side of the river it is also RA-5; that since this borders the river, it should be consistent across the County and be zoned RA-5.

Keith Megginson explained that the areas surrounding the proposed project are a mixture of different zoning, including RA-40 and RA-5.

Commissioner Cross stated that there is an asphalt plant and a fire department that already sit right on the river; that there are 19 houses on the river; and that he would just like to see it put back the way it was originally.

Commissioner Barnes stated that the Board has approved 265 houses this evening; and that he questioned why these people should be stopped from using their property when it isn't hurting anything in the whole County.

Jean Moore stated that she lived on Pea Ridge Road; that this is family land; that she just wants the ability to let their children build houses on the property; that between three families, they own the majority of the property under consideration; and that they just want to stay with their family.

Keith Megginson pointed out the floodable areas on the map.

Ed Lilliard, consultant and broker for the owner of the land on Pea Ridge Road; that they have no objection to the Board keeping the zoning heavy industrial with an exception that allows anyone who wishes to have conditional use of RA-40 or RA-5 or any other residential classification that suits the pleasure of the Board; that they would also agree to a light industrial or B-1 business district zoning; that the current owner inherited the property recently; that he is trying with limited means to develop this property thinking all this time that it would be suitable for heavy industrial; that they observed the truck stop being built across from the property; that it is not the best intersection; and that if someone wanted to build a house there, they would not object to it.

Commissioner Lucier stated that he thought that the property would be called a commercial node once the major corridor ordinance is completed in six months to a year; and that they would be encouraged to put commercial business at that corner. He further explained that there is a Major Corridor Task Force working on this issue, and that more information can be obtained on the County's website.

An unidentified man asked if it was likely that this would be made a commercial node; that he agrees with Mr. Lilliard said; that he believes what Commissioner Cross stated about zoning variance and the possibility of applying for a rezoning or a conditional permit.

Commissioner Cross stated that because it is likely that it will be designated as a commercial node, there would be little problem approving a commercial project; and that what they are trying to do in the meantime is let the rest of the folks that own property do what they wanted to do with their land.

The unidentified man above stated that he had written a number of emails to the members of the Board; and that residential should be permitted as a conditional use; that he Commissioner Vanderbeck's presentation on allowing residential as a variance makes sense and would solve everyone's problem; and that it would also allow a parsonage for the church.

Chairman Thompson stated that it appeared that he was the deciding vote; that he would like to see this done fairly; that there is the economic development consideration with this area; that there is a burden on the community if they must ask for a conditional use permit to build a home; that he feels like there is a workable solution; that before he makes a vote one way or the other, he would like to see something worked out that could benefit all concerned; that he would like to give it a couple of weeks to see if that can happen.

Commissioner Cross stated that in the watershed area, given the buffers required, there is not a whole lot of space left.

Keith Megginson stated that as a point of order, if they wanted to consider RA-5 the Board would need to re-do the process because the hearing was on RA-40.

Chris Young stated that he is confused about what is about to happen; that he is representing Mary Ann Miller and is trying to buy a piece of property from her; that he is hearing that it is about to be rejected; that it was originally considered as RA-40, and it would be reconsidered under RA-5; that the Planning Board did not raise this question, and the Economic Development Corporation did not raise this question and recommended approval; that he doesn't understand how we can get to this point and not move on. He further stated that he doesn't want to see this rejected or put off again; that he questioned why RA-5 and not RA-40 when much of the land is not suitable for any kind of development; that even though it looks like a lot of land, and there are very few places that you could put a house.

Jean Moore stated that there were few places that would perk in the area; that three families own the majority of the land and they have no intention of turning it loose for heavy industrial development.

Chairman Thompson stated that he would like to make a decision on this in two weeks; that tonight he would vote against making the decision; and that he would like a chance to consider points made by other commissioners.

The Chairman called the question. The motion failed two (2) to three (3) with Commissioners Lucier, Thompson, and Vanderbeck opposing.

Commissioner Cross and Commissioner Barnes exited the meeting.

MANAGER'S REPORTS

The County Manager had no reports.

COMMISSIONERS' REPORTS

Update on Jordan Lake Nutrient Rules:

Commissioner Lucier stated that there was a public hearing on July 12th on the Jordan Lake Nutrient Rules; that the purpose of the three hearings (none in Chatham County) was whether or not to delay the rules until 2016; that they were originally proposed for 2011; that since the lake is already impaired, it doesn't make much sense to wait; that a lot of the municipal governments would like a delay until 2016 because it may cost a lot of money to upgrade their treatment plants; that the Town of Cary, City of Graham, City of Greensboro all spoke out in favor of a delay; that Orange County waffled a bit; that the Town of Chapel Hill spoke out in favor of not delaying; and that Chatham County also spoke out in favor of not delaying the rules. He further stated that the Board passed a resolution back in February urging the adoption of the rules; that several Chatham County residents made comments; that he chided the organizers for not holding any of the public hearings in Chatham County when there is 150 miles of shoreline in the county; and that there are two more public hearings.

ADJOURNMENT

Commissioner Lucier moved, seconded by Commissioner Vanderbeck, to adjourn the regular meeting. The motion carried three (3) to zero (0), and the meeting was adjourned at 9:08 PM.

Carl Thompson, Chairman

ATTEST:

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