

MINUTES
CHATHAM COUNTY BOARD OF COMMISSIONERS
WORK SESSION
APRIL 17, 2006

The Board of Commissioners (“the Board”) of the County of Chatham, North Carolina, met in the Agricultural Building Auditorium, 45 South Street, located in Pittsboro, North Carolina, at 3:00 PM on April 17, 2006.

Present: Chairman Bunkey Morgan; Vice Chair, Tommy Emerson; Commissioners Patrick Barnes, Mike Cross, and Carl Outz; 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

The meeting was called to order by the Chairman at 3:06 PM.

Work Session

1. Presentation and Recommendation by Ag Advisory Committee on Transfer of Development Rights

The County Manager reviewed the afternoon work session agenda.

AG ADVISORY COMMITTEE

Charlie Bolton stated that the Board had asked the Ag Advisory Committee several months prior to take a look at the issue of “transfer of development rights” or any variation of it might work for Chatham County. He stated that he appointed a committee to review it; that he weighted the committee toward the traditional agriculture folks (poultry, cattle, timber, and large developers, etc.) as he knew that if it was going to work, that the large land owners had to be in on it; that they received countless hours of help from Kristin Walker, a Duke graduate student; that if the Board decides to further pursue it, they realize that a larger committee, with a broader representation of the County, would have to be formed. He introduced Mr. Clarence Durham, chairman of the committee.

Clarence Durham stated that the committee had met seven or eight times to discuss the pros and cons of transfer and development rights; that it was deemed feasible; and that it is something the County could use.

Kristin Walker explained that “Transfer of Development Rights (TDR) and density transfer fee programs allow communities to protect some lands while allowing denser developments in other areas; that it goes along with the theory that property is a bundle of rights that can be separated (mineral rights, etc.); that the right to develop ones land can be separated; that it can be sold separately; that one can keep using the land for whatever it was being used for before; that places where development is limited are typically called “sending areas”, while places where development is concentrated and encouraged are called “receiving areas”; that in sending area, landowner participation is voluntary; that the landowner can choose whether or not he wishes to sell his development rights; that if the landowner chooses to sell the development rights, the land can still be used in the same manner (farming) it was used before the development rights were sold; that developers buy the development right credits to achieve higher densities than current zoning allows within the receiving area; that a density transfer fee program (a certain type of TDR program) allows developers to pay a fee-in-lieu rather than having to find

development rights to purchase; that the County collects the fee monies and a citizen committee then decides which lands should be protected; that participation in selling land or development rights is entirely voluntary; that this set-up allows the County greater autonomy over the program while easing the transaction burden on the developer; that the County can use a small percentage of collected monies for administrative costs; that the monies can also be used as matching funds to leverage additional state and federal conservation dollars; that TDR programs (of which a density transfer fee is one type) require state authorization in some states; that it is unclear if North Carolina requires state authorization; that researchers at UNC-Charlotte feel that counties may be able to proceed without state authorization.

She stated that there are approximately one hundred cases of this in counties and towns in the United States; that all of them have zoning; that Chatham County is an excellent place for these types of programs because there are many areas that are still predominantly agricultural (sending areas), and there are other areas that are being developed (receiving areas); that they focused on working lands (farms and forests) because these lands are not protected by other programs; that citizens have a strong desire to maintain agricultural heritage and rural character; that in addition, they believe that these working lands are a key economic base for Chatham County and may become even more important to the economic well-being of citizens in the future; that they feel that initially it would be best to include only lands which currently qualify for land use taxation; that this designation would provide citizens with a definition and framework with which they are already familiar, potentially increasing acceptance of the program.

She stated that the future committee should be comprised of landowners who may wish to preserve their land, landowners in developed areas, developers, real estate professionals, representatives from homeowners groups, and representatives from environmental or conservation groups; that a technical consultant is necessary because there are many complicated aspects to these programs, including evaluating land uses and determining appropriate density bonuses and transfer ratios; that future committee work will require detailed maps and plans related to natural resources, current land use, and current zoning; that citizen input, including public meetings, will be important to the process; and that a hired consultant can help facilitate all of these things and insure that the process moves forward in a timely manner.

After considerable discussion, Commissioner Emerson moved, seconded by Commissioner Outz, to have the committee meet one more time and return to the Board with a recommendation for a "Super TDR Committee" comprised of representatives of the Transfer of Development Rights Study Committee and others that they would like to recommend. The motion carried five (5) to zero (0).

FINAL PLAT APPROVAL OF "SCARLET OAK"

Final Plat Approval of "Scarlet Oak": Consideration of a request for Steve Christopher for subdivision final plat approval of "Scarlet Oak", consisting of seven (7) lots on twelve (12) acres, located off SR #1530, Polks Landing Road, Baldwin Township

Jason Sullivan, Planner, stated that there was a final plat copy error on "Scarlet Oak" as per Steve Christopher, developer; that they were showing a 30' emergency vehicle access easement off the cul-de-sac which is part of their project; that none of the approvals were shown on any of the drawings that were submitted for sketch and preliminary approval; that it was apparently an error through the surveyor's office; that it was apparently a technical error and not something that is required; that they have removed the easement from their mylar for the night's meeting; that it is immaterial to the decision; and that the developer wanted to bring it to the Board's attention prior to the meeting.

By consensus, the Board decided to leave it on the Consent Agenda for approval at the night's Board of Commissioners meeting.

EMERGENCY WATER CONNECTION

The County Manager explained that Jaime Johnston who lives in the northeast section of Chatham

County, has a poor well; that she is located approximately seventy-five feet from the Cary water line; that Cary wants to help by letting her have an emergency water connection with annexation in the future; and that they want her to get authorization for the County due to the moratorium on annexation pending an ongoing study

Commissioner Emerson moved, seconded by Commissioner Outz, to allow Jaime Johnston to purchase water from the Town of Cary. The motion carried five (5) to zero (0).

SALE OF HOSPITAL PROPERTY

The County Manager reviewed, and the Board discussed, the Resolution Authorizing the Sale of Real Property for Economic Development Purposes. Action may be taken after the public hearing at the night's Board of Commissioners' meeting.

AMERICAN CIVIL LIBERTIES UNION (ACLU) – PRAYER ISSUES

The County Attorney stated that he had received a copy of the letter from the American Civil Liberties Union of North Carolina stating that the Chatham County Board of Commissioners frequently begins their meetings with sectarian prayers invoking Jesus Christ. He stated that in order for the Board to comply with the law, that if the meeting is opened with prayer, the Board has to be very careful not to promote any religion.

Commissioner Outz asked if the Supreme Court opened their meetings with prayer. He stated that he felt like ninety-nine percent of the people would be in favor opening with prayer.

Chairman Morgan stated that, as a Christian, he sometimes uses "Jesus Christ" in his prayers; that he has heard quite a few others do so; that the ACLU has asked the Board to put a stop to it and that they inform them of the Board's course of action by April 24, 2006; that this is why he needed to get it before the Board at this meeting. He asked if the Board wanted him to respond to it and if so, what how he should respond.

Commissioner Barnes stated that for the majority of citizens, it makes everyone mad; that it is his understanding that the Board can have prayer and God can be mentioned, but the two names, Jesus Christ, can not be used; that the idea of abandoning prayer irritates him; that if the Board continues the practice it now has, one just has to be certain not to use the two names "Jesus Christ" together; and that the remainder of the prayer would be within the legal limits of the law.

Chairman Morgan stated that although he knows some of the Board members' beliefs, he would never ask them to have an invocation a certain way.

Commissioner Barnes stated that he felt it would be better for someone else to write the letter other than he, as he thought the ACLU could spend their time in better ways.

Chairman Morgan stated that he thought counsel had done a good job explaining the rules.

Commissioner Cross stated that he felt that if the Board followed the same rules as Chesterfield County and invite religious leaders to begin meetings with non-sectarian invocations, that they would be in compliance.

Commissioner Emerson stated that Christ gave His disciples the model prayer; that it might ought to be the Board's model; that it is commonly referred to as the Lord's Prayer; that it may be the Board's solution at this point; that each could pray in his own manner or not, according to their desire; that he does not want to abandon the prayer; and that he wants to respect other people who have different faiths.

Commissioner Outz stated that he had always thought that if there were those in attendance who didn't like the prayer that they could step outside.

Mr. Ray Greenlaw asked why the Board didn't adopt a moment of silent prayer.

Chairman Morgan stated that he has mixed feelings about that but that it would be a good way to prevent trouble.

Commissioner Emerson stated that he didn't like the idea, but from a legal perspective, the Board should follow the County Attorney's advice; that they are all Christians but they can not pray in traditional ways in which they are accustomed; that they all agreed to obey the laws, whether they liked them or not; that he is suggesting that the Board continue with the Lord's Prayer; that he has spoken with a person of Jewish faith who has no problem with the Lord's Prayer; and that that might be the best recourse.

Commissioner Outz stated that his suggestion was to leave it as it is. He stated that if the Board keeps bending to all the rules that is put out by one, two or three individuals which amount to less than one percent of the population, it is ridiculous.

Commissioner Emerson stated that he felt the entire Board agreed with Commissioner Outz, but that it is a matter complying with the law.

Commissioner Cross stated that the Board just needs to avoid invoking the name of Jesus Christ.

Chairman Morgan stated that he would be as polite as he could if he is going to write the letter; that he will apologize if he has offended anyone; that another man is not going to tell him how to pray; that he will respond by the April 24th deadline with the help of counsel and will e-mail the Board a copy of the letter before he sends it.

By consensus, the Board agreed.

CHATHAM (BENNETT)/RANDOLPH SCHOOLS

Commissioner Emerson stated that he had received a telephone call from Mr. Jerry Polston from Bennett with regard to the Board of Commissioners being in sympathy to the Board of Education's proposed tuition for Bennett residents that live in Randolph County but who attend Bennett Elementary School; that he had told Mr. Polston that he thought that was a correct assumption; that he asked for an official letter from the Board of Commissioners; that he told him that he could not speak for the entire Board; that he understood that the matter was under litigation; that he would discuss it with the Board, although he would not promise any action; that before any action was taken, it would have to be with the consent of counsel since the suit was against one of Chatham County's entities; and that he did not know what the implications would be.

The County Attorney stated that it was a Board of Education matter; that the Board of Commissioners does not have the authority to tell the Board of Education what to do; that the matter is in litigation, before another body that will make a decision; and that he does not think it is a good idea for the Board of Commissioners to take any action to try to influence the litigation.

WASTE MANAGEMENT

Commissioner Outz asked about the contract with Waste Management.

The County Manager explained that the contract was renewable year-to-year.

Chairman Morgan stated that he had received some requests from attendants working at the centers; that some were afraid that they were going to lose their jobs; that he told him that when it came before the Board for renewal, he would inform them; and that the Finance Officer stated that the way the proposals were written, that consideration to retain the present employees would weigh a lot.

Commissioner Outz stated that for future planning, he felt the Board should meet with Moore, Lee, and Randolph Counties to see if they would be interested in a joint waste management facility.

The County Manager stated that Lee County had looked at having a landfill, but that their commissioners had withdrawn the site.

Commissioner Outz stated that he felt that there were some good-sized tracts of land left in Chatham County.

NCACC MEDICAID BRIEFING

Commissioner Cross stated that on Wednesday, the North Carolina Association of County Commissioners would be holding a Medicaid briefing at the Millennium Hotel in Durham; that everyone received an invitation to attend; that Jason Sullivan and he have to be in an NCDOT/TJCOG Wednesday regarding motor vehicle emissions and will be unable to attend; and that he hopes someone from the Board will be able to attend.

CALENDARS

Commissioner Emerson asked to review the Board's calendar as follows:

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| May 8, 2006 | Joint Meeting with the Board of Education |
| May 1, 2006 | Budget schedule to be determined (tentative) |
| May 15, 2006 | Public hearing on budget which is required by law |

The County Manager is to talk with Joel Brower, Manager of the Town of Siler City to determine the availability of facilities.

Commissioner Cross moved, seconded by Commissioner Outz to hold the required statutory public hearing on the budget at the Board of Commissioners' meeting on May 15, 2006. The motion carried five (5) to zero (0).

CENTRAL CAROLINA BUSINESS CAMPUS

The County Attorney stated that under the provision in which the County is selling the land to the hospital, the County does not have to waive any longer; that there was a ten-day notice given; that that was suffice; that the covenants still have not been worked out; and that this needs to be done before the deed is transferred.

The County Manager asked that if the Board chooses to convey the property at the night's meeting, do they need to do it because of the covenant question contingent upon the covenant being registered, completed, and filed.

The County Attorney replied that it needed to be done contingent upon approval of the covenant and that they would probably include a provision reserving the right to amend the covenant within some time period.

It was noted that the Economic Development Commission was still working on the covenant.

PUBLIC COMMENTS

Mr. Marshall Atwater stated that he has no anger against the Board of Commissioners; that he has never been abused by his County Commissioners; that he has the highest regard for his County government; that one of the finest persons he knows with the highest character is Tommy Emerson; that Patrick Barnes is from one of the finest families in Chatham County; that there are hundreds of people in Chatham County that are angry because they think that they are going to be governed by the County system plus the Chatham Coalition; that he knows no one can serve two masters; that with three Coalition members and two Chatham County Board members, he is afraid that the two County Commissioners will be outnumbered; that he doesn't feel that the Board of Commissioners wants that to happen; that he feels that the Coalition members are loyal to their coalition.

Chairman Morgan stated that toes were probably being stepped on; that Chatham County Government governs the County and tries to follow and set the rules; that it would be best not to insinuate that in this type of atmosphere.

Commissioner Barnes stated that it sounded like a lot of misinformation; that there is no one present who has an alliance; that it is probably not the proper place to discuss it; that the Governing Board governs the County with the help of the County Manager; and that that is not going to change.

Chairman Morgan stated that this was the benefit and honor of living in America; that everyone gets to think as they wish; that it must be done in a civil way; that it is a sensitive thing; that as government, they will not let any other association run the government; that this is an area that the Governing Board cannot address as Commissioners.

Commissioner Barnes volunteered to write Mr. Atwater a letter addressing his concerns.

VOTING MACHINES AND EQUIPMENT

Commissioner Cross stated that he had received numerous calls and e-mails with regard to Agenda Item #20, Resolution Approving the Purchase of Voting Machines and Equipment. He asked why the issue was back on the Agenda for another vote.

Chairman Morgan stated that the item was returned to the Agenda at the request of counsel; that counsel represents the Governing Board and the Board of Elections; and that the matter will be discussed during the evening Board of Commissioners' meeting.

AFFORDABLE HOUSING

Commissioner Cross reminded everyone of the Affordable Housing luncheon to be held on June 2, 2006. He stated that the money was coming in slowly and that he would encourage sponsorship.

HABITAT FOR HUMANITY

Commissioner Cross stated that on Thursday, June 1, 2006, there are five builders who will build five Habitat houses in five days; that there will be a ceremony on Thursday and a dedication of the houses the following week.

ADJOURNMENT

Chairman Morgan adjourned the work session at 4:24 PM.

Bunkey Morgan, Chairman

ATTEST:

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