

MINUTES
CHATHAM COUNTY BOARD OF COMMISSIONERS
WORK SESSION
JANUARY 22, 2008

The Board of Commissioners (“the Board”) of the County of Chatham, North Carolina, met in the Henry Dunlap Building Classroom, 80 East Street, located in Pittsboro, North Carolina, at 1:00 PM on January 22, 2008.

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

The Work Session was called to order by the Chairman at 1:02 PM.

Work Session

1. Continuation of Summit Issues:
 - A. Lighting Ordinance: Countywide
 - B. Countywide Environmental Ordinance
 - C. Adequate Public Facilities Ordinance-countywide authority
 - D. Affordable Housing – Inclusionary Zoning
 - a. Briar Chapel Affordable Housing
2. Status of Paul Black Work
3. Discussion for the assignment of the preparation of an Environmental Ordinance-- Fred Royal and the Environmental Review Board, if ready
4. Presentation by the County Attorney on the Graybeal revisions to the Closed Session Policy
5. Presentation by the County Attorney on the Tourism Authority Board
6. Sheriff’s Report: Racial incidents in Southwest Chatham County
7. Status Update on Northeast Park Master Plan
8. Presentation by the Green Building Task Force on energy audits for public buildings.
9. Deer Run Subdivision request for water

Chairman Lucier stated that Items #1 and #2 were continuations of the Board’s Summit discussions and had been added to the revised agenda.

SUMMIT ISSUES CONTINUATION

Keith Megginson, Planning Director, stated that regarding Item #2, Paul Black was meeting with the Zoning Subcommittee at this time so discussion of that could be delayed until that meeting was concluded and Mr. Black could join this meeting; that Item #1 was a continuation of five issues discussed at the retreat: Countywide lighting ordinance, Countywide environmental ordinance, Countywide zoning, Countywide adequate public facilities ordinance, and affordable housing – inclusionary zoning.

Lighting Ordinance

Chairman Lucier stated the Lighting Ordinance took effect on February 1, 2008. Mr. Megginson stated that was correct, adding that at the present time, it was a portion of the Zoning Ordinance. Chairman Lucier stated something at least two Commissioners had brought up to him was trying to do what they could to make the Lighting Ordinance County-wide, and asked what the plans were for that. Mr. Megginson stated if the Board chose to do that, he would discuss with Mr. Whiteheart the authority under which that could be done, noting it likely could be done under nuisance and general health and welfare laws.

Commissioner Vanderbeck stated when the Lighting Ordinance had been discussed in the past and he had asked what it would take, Mr. Megginson had given the Board that information,

so he had been expecting a report on what they would have to do to make the ordinance Countywide and any obstacles they might expect; it now seemed as if they had lost that window of opportunity; and, he had thought the Board had already given Mr. Megginson the directive to move forward to see what was involved to make it happen County-wide.

Chairman Lucier stated it had been his understanding that they were going to do it in a two-step process; step one was to do what they had done and that would be effective on February 1st for the zoned part of the County; and, step two was to move forward with the County-wide lighting ordinance, adding the Planning Board and the Planning staff had much work on its plate. He asked if Mr. Megginson believed this would require a work session item, or could he put together a list of items and their sequence that would need to happen to move forward on this, as well as its relative timing.

Mr. Megginson stated they could review everything that would be required and put together a stand-alone ordinance for the Board's review, noting much of the administrative language could be pulled from other ordinances.

Chairman Lucier stated the concern was that it would take a lot of work to do, adding that clearly there were several related moratorium items that they did not want to see pushed back due to other priorities.

Commissioner Thompson stated that both the current Lighting Ordinance and the County-wide Lighting Ordinance would be similar, so he believed the timeframe would be short. He added when they had discussed this previously, he had not remembered giving staff the directive to move forward on this.

Chairman Lucier determined that there was a consensus of the Board to move forward with a County-wide Lighting Ordinance, but that moratorium items not be delayed because of that work.

Adequate Public Facilities Ordinance

Mr. Megginson stated that if the Board planned to implement an Adequate Public Facilities Ordinance (APFO) County-wide and County-wide zoning, there was likely no need to do a stand alone County-wide Lighting Ordinance for the next three months, because it would be incorporated into the Zoning Ordinance.

Commissioner Vanderbeck stated he did not see the Board getting into the APFO in this timeframe; they were certainly exploring it and the Planning Board would be discussing it; but, if some of the details could be flushed out now and brought to the Board's attention, that would be preferable.

Chairman Lucier stated they had talked about two other options in lieu of an APFO, one of which was conditional zoning and the other was to make all subdivision applications conditional use; that would mean that all subdivision applications would have to meet the five findings of fact. He said if that seemed like a reasonable approach, it appeared that would accomplish the same thing as an APFO. Mr. Megginson stated they did not yet have County-wide zoning, so if someone chose to do something outside the zoned areas, they would be allowed to.

Chairman Lucier stated they could not do Conditional Use Zoning, but what about Conditional Use. Mr. Megginson stated they were different, but they both required zoning. Chairman Lucier stated then APFO would require zoning as well, so either of those options would require County-wide zoning.

Kevin Whiteheart, County Attorney, stated that depending on which way you chose to go with the APFO, you could take an approach of looking at a targeted area; one of the advantages of an APFO was that they seemed to work better on a targeted area provided it was zoned; if you were having a majority of growth coming from one particular sector that was zoned, you could look at an APFO that would address school capacity just in that area; it was not a requirement that you do a full Countywide APFO.

Chairman Lucier stated the same thing would hold for the other two options, because that area of the County was already zoned as well. Mr. Whiteheart stated that was correct.

Commissioner Vanderbeck asked wasn't the Planning Board or one of its subcommittees currently discussing this. The County Manager indicated that Paul Black was now present and may have an update.

County-wide Zoning

Paul Black stated he had just come from a joint meeting of two subcommittees of the Planning Board, and Countywide zoning had been discussed; they were looking at something Countywide at least in terms of a recommendation to the Board; what form that would take was still being discussed, but there was consensus that they draft some kind of zoning district that was based on protecting farms that was less restrictive in terms of use provided you have a large footprint of land; they were looking at saying that if someone had a farm that was defined, that you could do whatever you wanted with up to 5% of that land with some caveats as long as you continued to farm; and, that would reflect the existing patterns and would be more inclusive.

Mr. Black stated at such time that land no longer was used as a farm, for instance if it were subdivided, that would have a very different impact on the provision of public services, and they wanted to have a trigger so that it could be reviewed to determine what impact it would have on the schools, the roads, and the water system. He said essentially it should reflect what was there now, but the one additional burden it would place on people was that when they decided to get out of the farming business they would need to be rezoned. Mr. Black said what they were doing now was trying to determine if there were places where that would not be appropriate or there were nonconforming situations.

Commissioner Barnes stated he liked the direction this had taken, noting there were many farms that in the off season conducted other types of businesses, such as hauling stumps or grading; that meant that some farms would not be 100% agricultural year-round but due to the need for additional income they conducted other types of businesses during the off season. Mr. Black stated from a philosophical perspective mixed use was a part of rural character, and they wanted to reflect that.

Commissioner Thompson asked what would be different from the current ordinance regarding farms. Mr. Black stated the biggest difference would be a default zone that was residential agricultural, and what they were doing was taking the residential part out; what they were saying was that a residence on a farm would be an ancillary use to the farm.

Commissioner Vanderbeck stated there was a farm in Silk Hope that also were concrete haulers, raised chickens, had grazing/hay fields, and a number of other things. He asked if he had any idea of a timeframe of when the Planning Board would be ready to make some kind of recommendation to this Board. Mr. Black stated they were hoping to have a draft dealing with subdivisions ready by the end of this month, and a draft dealing with zoning by mid to late February.

Commissioner Thompson asked was it their sense that the Planning Board would be unanimous behind the recommendations, or was there a measure of dissent. Mr. Megginson responded the issues were still in front of the subcommittees and had not yet been taken before the Planning Board.

Mr. Black stated of the members present at this morning's meeting the votes were unanimous, but that was not the full Planning Board but a subcommittee of the Planning Board.

Chairman Lucier stated it appeared that their work had been accelerating and from his perspective they seemed to be on target, and the best course of action may be to wait for the recommendations.

Commissioner Barnes stated that many of the issues would be resolved with what would be recommended.

Commissioner Thompson stated he liked where they were going, especially where farms were concerned; that he believed they should move to do the zoning to benefit the citizens, but

sometimes people were prone to disagree with an approach regardless of what it was because of misunderstanding; and, that it would behoove them to move slowly to make sure everything they were doing was publicized, and that they hold educational forums. Mr. Black stated they agreed, and as a first step would be meeting on February 19, 2008 with the Agricultural Advisory Committee to get input.

Commissioner Vanderbeck asked if the Agricultural Extension Division was represented at the meeting. Mr. Black responded no, but they would be getting in touch with Al Cook. Commissioner Vanderbeck stated Sam Groce would also be a good contact, noting he agreed this should go through some informational process prior to a public hearing.

Chairman Lucier stated that was similar to the approach they were taking with the Major Corridor Study. He thanked all of the committee members for their work, noting the Board was appreciative of what they were doing. Mr. Megginson stated to implement the Major Corridor Study they would need to have public hearings on the specific parcels being zoned, and it needed to be kept in mind that if you wanted to put an agricultural zone in the rest of the County that those two things could be done together.

Chairman Lucier stated a lot of that would be determined by how well the timing fit together as well as what was involved.

Commissioner Vanderbeck stated it had been brought up about the need for clarification regarding Old Graham Road appearing to be a major corridor, and that was to be clarified in subcommittee or with the Planning Board. He stated he wanted that to be kept in mind and not buried.

Chairman Lucier stated he thought that had already been clarified; that he had tried to clarify it on three separate occasions. He stated that Old Graham Road was not a major corridor.

Commissioner Vanderbeck thanked Chairman Lucier for stating that on the record. Mr. Black stated you would not want the scenic district applied there; you would want the RA-40 zoning in that area. Mr. Black stated that should be incorporated into the next discussion of the Planning Board and then the changes would be made.

Commissioner Thompson stated he believed staff now had direction.

Chairman Lucier agreed, noting it carried the caveat that work on the Lighting Ordinance would not affect any of the moratorium issues.

Affordable Housing – Inclusionary Zoning

Mr. Megginson stated that another item for discussion was affordable housing – inclusionary zoning; that two towns did it now, Manteo and Davidson, and they had not been challenged; it would be a good idea to ask the Legislature specifically for authority to do it through a local bill. Mr. Megginson added that no counties do it now.

Mr. Black stated that had come up at today's meeting, noting you could point to it from the zoning ordinance to your subdivision ordinance; one approach to get at that in a roundabout sense with subdivision regulations was by stipulating that a certain percentage of parcels created had to be of some smaller size, which would in turn mean that the product that went on the smaller lot would be smaller and thereby create more low-cost housing, although it may not exactly meet the definition of "affordable."

Chairman Lucier asked what were they supposed to do with affordable housing in terms of the moratorium.

Commissioner Vanderbeck stated part of it was the possibility of developing some kind of County-wide direction or policy on affordable housing and believed the County Manager had arranged for a couple of people to work with the Board in that regard. The County Manager stated they would be meeting this week with the Director of the Affordable Housing Task Force. Commissioner Vanderbeck stated that would include someone from the State Housing Association and one or two people from the School of Government, and the Board would interview them to see what they were offering.

Commissioner Vanderbeck stated that the first phase draft of the Needs Assessment had been presented to the Task Force with the second phase to be presented shortly, so recommendations should be forthcoming. Mr. Megginson explained that the Task Force would likely be suggesting ordinance amendments in several areas, and the schedule called for the recommendations going to the Planning Board prior to March 30th, then a public hearing would be held prior to April 30th, and then the ordinance amendment adopted by June 3rd.

Commissioner Vanderbeck stated it had been challenging to get outside help on this to help facilitate the work of the Task Force, and they had tried to run concurrently with the Needs Assessment Development. He asked the Commissioners to earmark Friday, April 11, 2008 as the Affordable Housing Task Force Summit, where much of this would come together; it was scheduled for 8:30 AM to 4:00 PM with the location to be determined; and, he encouraged as many of the Commissioners as possible to attend.

Chairman Lucier stated there were many things about affordable housing that were confusing; they had the Needs Assessment, they had the Affordable Housing policy, they talked about inclusionary zoning, they had more specific issues related to the Briar Chapel project and how functionally they would get those houses built and ensuring they maintained affordability over time. He stated it would be helpful to have a significant work session on affordable housing to try to deal with all the issues and dispel any confusion.

Commissioner Vanderbeck agreed, noting that soon the County would be taking over the twelve lots and then reassigning them to EmPOWERment who was earmarked by the previous Board to receive the sixty units at Briar Chapel for the development of affordable housing.

County Attorney Kevin Whiteheart stated he had received a phone call from Jennifer Andrews last week about the drafting of the deeds; there were fourteen lots that they were prepared to convey to the County subject to having the deeds finished; Ms. Andrews had conveyed that there were certain pieces of language they had incorporated in each deed regardless of whether the property was for affordable housing or not for that subdivision; they were not able to issue any deeds until they had the final plat approval for the first three phases of the subdivision; that final plat approval came on December 18th, so they were now ready at some point when they got the deed language ready to offer that for dedication to the County. Mr. Whiteheart stated they feel confident that the deeds would be ready by the first meeting in February.

Mr. Whiteheart stated it was his recollection that at the second meeting in October this Board had voted to convey the first three lots to EmPOWERment, so it was his understanding that the Board would have to take some action to convey the remaining eleven lots that were coming to them.

Commissioner Vanderbeck stated he had suggested listing the lots either by parcel or some other identification method in the agreements just in case there were any changes, not to where they were going but for any other policy issues that might come up. He said that change had been requested in the daytime work session meeting, and Mr. Whiteheart had brought it to them in the night meeting and those changes were then authorized by the Board. Mr. Whiteheart stated what they were trying to do with the first three sections of phase 4 was identify lots that they wanted to go ahead and convey for affordable housing; that they were actually beyond the ratio of what they were supposed to do per section, so they were trying to go ahead and convey more lots than they were actually required to do pursuant to the formula that had been set out.

Chairman Lucier asked would they be able to meet the schedule that Mr. Megginson had described, that is, to have the public hearing by April 30th.

Commissioner Vanderbeck stated it looked doubtful; that they would need to meet with the facilitator to craft something; that it was more of a quality issue rather than a time issue, and they would do the best they could; that if more time was needed, they would ask for more time and would not expect to be denied that extra time outside of the initial moratorium period.

Chairman Lucier stated there were a lot of issues surrounding affordable housing, and it would be good for them to be able to understand the totality of it.

Commissioner Thompson stated he recalled that there was a Memorandum of Understanding drafted between the Board and EmPOWERment, and asked had it specified or outlined conditions by which the Board could maintain affordable housing in perpetuity. Mr. Whiteheart stated it placed the burden on EmPOWERment to ensure that the homes would remain affordable for 99 years; the issue that needed to be resolved was what mechanisms were put in place by EmPOWERment satisfactory to the Board to maintain that affordability.

Commissioner Thompson stated that EmPOWERment likely needed to talk to the Board about what they had come up with, and that it was the Board's general understanding that they would be developing sixty lots in that subdivision. Commissioner Thompson asked who was looking at these lots to make sure there was compliance in regards to any stipulations regarding size or location or other issues. Mr. Whiteheart stated they were doing that as the lots were brought to the County, and he believed that EmPOWERment was involved in those discussions as well. He said it might be advisable to get some local legislation on that, and the Board could include that in its legislative initiative with their local legislators.

Mr. Whiteheart stated there were only two towns or cities that did it, and it had not been done County-wide; even the people at the School of Government recognized it as a grey area, so it would be best to seek local legislation for that.

Commissioner Cross stated the houses and condos at Briar Chapel had all been designated in each phase of the plans approved, and did not believe that had changed.

Commissioner Vanderbeck stated it appeared a couple more were being added to this phase, and to take advantage of the more affordable pricing. He acknowledged it was more than what the percentage required would call for.

Commissioner Cross stated they had no option to do that unless they came back before the Board.

Commissioner Vanderbeck stated that was something that would have to be fleshed out with Briar Chapel and the County. Mr. Whiteheart stated that was one of the reasons it was not on the agenda for today, because all of that review process had not yet been completed; they had not yet seen the final draft of the deeds that outlined all the lots and all the conditions being asserted in each deed.

Chairman Lucier stated there appeared to be a consensus that local legislation be sought. He stated that one of the problems with Briar Chapel was that their affordable housing was on single-family lots, which were more expensive.

Commissioner Cross stated they had condo, townhouse, and single-family all as a percentage.

Chairman Lucier said the entire first group was single-family, so that was one of the difficulties with making them affordable for the long term.

Commissioner Cross stated they needed to look at the map for phase 4 and see what was designated, and if that was what had been designated, then they would be getting what had been approved; if that was not the case, then EmPOWERment needed to get it approved.

Commissioner Vanderbeck stated he had asked about how to keep the houses affordable long term from a taxing standpoint, and could the County "forgive" appreciation on part of the property to subsidize a portion of the taxes. County Manager Horne responded that had not been resolved. He stated another related issue was covenants by a homeowners association and association dues, which could affect the affordability of these homes.

Commissioner Cross stated he had thought the Task Force was working on those issues.

Commissioner Vanderbeck stated they were, but he had spoken to the County Manager to get the staff's perspective on what some of the options might be regarding taxes to help keep the homes affordable. He stated he had mentioned the homeowner association dues to the County Manager as well because he had not wanted such dues to cause the homes to no longer be affordable.

Commissioner Thompson stated there should be a model being used elsewhere that they could take a look at.

Chairman Lucier agreed, noting that should be a part of their work session on affordable housing.

Mr. Whiteheart stated one of the challenges of Briar Chapel to maintain affordability so that individual and families from Chatham County whose incomes were up to 80% of the median income would be doing something that would eliminate the requirement that they pay homeowner association dues, estimated to be \$150 per month and likely closer to \$200; that if the real estate itself was included in the taxable amount, that also might exclude families that would otherwise be eligible; that the pricing range for those lots was between \$60,000 and \$80,000 per lot; that it was estimated the homes could be constructed for \$150,000 a unit; if you added another \$60,000 to \$80,000 to that cost, then the total cost was between \$220,000 to \$240,000 per unit, which made them no longer affordable.

Mr. Whiteheart stated one solution that had been used in Orange County and that this Board might want to consider was a land trust so that the County actually owned the land so that it was not taxable; there was actually something in the restrictive covenants put together for Briar Chapel that said as long as the real estate was owned by a non-profit entity then they would not assess homeowner association fees; if the property were held by an individual or family then homeowner association fees would be assessed.

Chairman Lucier stated then a land trust of some sort seemed like a potentially viable alternative to keep those homes affordable. Mr. Whiteheart agreed.

Commissioner Vanderbeck agreed, but stated that these were the things that should come to the Task Force to work on and they could then make recommendations to this Board.

Chairman Lucier asked which issue should be discussed next. The County Manager replied that they had met this morning and believed they were ready to present information regarding the Environmental Ordinance; that Paul Black was covering the work of the subcommittees to bring back individual recommendations to the Planning Board and to this Board; and, that they were recommending an RFP to get someone on board to help them tie it all together in a logical way.

Chairman Lucier asked how long it would take to get someone actually working on that. Mr. Horne responded they had made some inquiries and there were several options; they could use a small firm that had a background in this area, or they could hire a consulting group with the same expertise. He stated they had a tight timeline, and the cost would likely be \$30,000 to \$50,000. Chairman Lucier asked when it would start. Mr. Horne replied it depended on the product received from Mr. Black, but if there were no major issues he believed it could be before the public the latter part of May.

Fred Royal, Environmental Resources Director, stated the end of April may be a possibility depending on the scope of work.

Chairman Lucier asked when the work would actually begin. Mr. Horne stated if the Board granted permission to move forward, the work could begin in the next two weeks.

Mr. Megginson stated before the work could start, they would have to see what had already been done so they could see what had to be coordinated.

Chairman Lucier stated some things were farther along than others and he would like to have the consultant go ahead and look at what had been done as soon as possible. Mr. Horne stated to expedite the process it would help if the Board waived the typical advertising for RFQ's.

Commissioner Barnes moved, seconded by Commissioner Cross, to forgo the typical advertising RFQ process and identify someone to do the integration work on the planning and zoning related activities as soon as possible.

Commissioner Vanderbeck asked Mr. Black if he was satisfied with proceeding in this way rather than having Triangle J take it on. Mr. Black stated this was a good way to go for the short term; that they would take a look at it but they had some large projects coming forward and would likely not have the time to do it.

Commissioner Vanderbeck asked would Mr. Black be willing to be a part of the process to select the consultant, since he was familiar with the firms. Mr. Black stated he would be glad to help, adding that some of the work they had already done may need to be integrated and he would be glad to help with that as well.

Chairman Lucier stated it would be important for Mr. Black to be able to work well with whoever was doing the second piece.

Mr. Megginson stated a private consultant considering doing the work would want a specific description of the work to be done; that it would be important to specifically say they were looking at County-wide ordinances or not, and that all the “dangling parts” that were out there were included in the work.

Commissioner Cross stated at this point they were saying they wanted what was being worked on synchronized and to get through the moratorium. He stated he did not believe they would get into Countywide zoning until later in the year.

Mr. Megginson asked if the Board was looking to have something happen between now and June 3rd, or something longer term.

Chairman Lucier stated it could easily go beyond June 3rd, noting there would be things the Board wanted done by June 3rd and some things that would be done after June 3rd; it was important to get started now.

Commissioner Thompson asked was there a way to contract with a firm based on the work performed per hour as opposed to a bid amount for the job period.

Chairman Lucier stated they could have a “not to exceed” clause in the contract; the contract could also be written to have decision points along the way to re-establish the funding; he trusted the staff to put together the contract mechanism to achieve that. Mr. Horne stated there were several options that they would explore.

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

ENVIRONMENTAL ORDINANCE

Allison Weakley, Environmental Review Board Chair, stated that the ERB was concerned that environmental assessment requirements and the minimum criteria were not relevant to unzoned portions of the County; at their December 20th meeting they had voted to recommend to the Board that it consider looking into an environmental ordinance that would cover the County as a whole; currently there were no standards or definitions in the current subdivision or zoning ordinances; regardless of whether the Board went forward with a county-wide ordinance those issues still needed to be addressed; the ERB had worked in subcommittee on blending together SEPA guidelines along with other information from the Orange County Environmental Impact Ordinance.

Chairman Lucier asked if Orange County had a full ordinance. Ms. Weakley stated that was correct, noting that Orange County was fully zoned. She said the ERB had voted at its December 20th meeting on a timeline which would give staff two weeks to review an environmental assessment for completeness; then a 90-day review period with a process for extensions when necessary.

Chairman Lucier stated he believed a two week review period was a tight timeframe. Fred Royal, Environmental Resources Director, agreed it was a tight schedule particularly if more than one was on the table for review; it had taken him two weeks to process just one and to get all the letters out.

Ms. Weakley stated the ERB believed it was important for the County to establish a timeline and a process.

Chairman Lucier asked Mr. Royal what issues he saw with this process. Mr. Royal stated one issue was defining clearly what "peer review" meant; was that staff, was that the ERB, or was it a third-party consultant. He stated the other key piece was that they were talking about environmental documentation for the less than 25 lots, in that they had the minimum triggers and they had the environmental assessment; the issue was which was the larger requirement for developers because an environmental assessment could turn into a finding of significant impact which would mean an environmental impact statement was required, adding another level for the developers.

Mr. Royal stated while they were talking about the major development projects there was also an immediate need for the small projects, and that was what they had been working on for the last several weeks.

Chairman Lucier stated he believed their priorities were correct, since at the present time the larger portion was covered by the moratorium.

Ms. Weakley stated in the interim, the ERB were anxious to get some policies and standards in place so that as projects came forward they could be reviewed in a timely fashion.

Commissioner Vanderbeck asked if there was a problem with how these fit in the overall timeframe from the time an application was received and when they were due; he asked did the process need to be lengthened in the time of the moratorium to allow for this extended review. He stated that developers were interested in this, and the timeframe should be such to allow the process to work and work well to benefit everyone. Ms. Weakley stated she had always believed the environmental assessment should be due at sketch.

Chairman Lucier stated that until the time the environmental assessment was due at sketch, they needed a process to get them through now. He stated there were three steps: that the applicant had to prepare the assessment; the ERB or the ER Director would have to review it; then the peer review would have to go back to the applicant for comment. Chairman Lucier stated they had to allow time for that to take place, and that was how the peer review process would work best.

Commissioner Vanderbeck asked were they going to make a recommendation to make that happen. Mr. Royal stated yes, and they would be looking at the legal aspects with the current ordinance and its 60-day requirement.

The County Manager stated they had talked a good deal about how that process would work, and knew that the timeline would be elongated but did not yet know how much. He stated that requiring the environmental assessment at sketch would add 90 to 120 days to the timeline.

Commissioner Vanderbeck asked how long did Orange County's process take. Mr. Royal stated he did not know, but could get that information. Commissioner Vanderbeck stated he knew it was likely longer, but that builders and developers were looking for something that they could comply with and work within the timeframe.

Chairman Lucier stated they looked forward to getting the proposed process and understood that it would add some time at some juncture of the process.

Chairman Lucier stated regarding the broader issue of having an Environmental Ordinance, he believed he was hearing Ms. Weakley say that was a good idea for the County. Mr. Whiteheart stated that tied into the discussion on County-wide zoning; he had asked the School of Government to respond to the idea of County-wide zoning; the response from Professor Ducker was regarding the unzoned areas of the County and what may happen if you had a County-wide review process without County-wide zoning. Mr. Whiteheart stated imagine you could have an industrial project come in with no new road to be created and no approval permits or zoning from the County; all they needed was building permit; the County would require them through the County-wide review process to submit an environmental statement with documentation, and that documentation showed major adverse impacts; the predicament was that the County would have no leverage or review process to turn that down; all the industry would

need would be a building permit to construct their facility, assuming no State agency permit was required; and, it could lend itself to much frustration because there would be an assessment that showed there were major impacts but no way to deal with it.

Mr. Whiteheart stated Professor Ducker's suggestion was that if the County wanted to do a County-wide ordinance for reviews on everything, residential and non-residential, then they should look at County-wide zoning; otherwise recognize that such a scenario as he just described might occur. He stated he had talked with Mr. Megginson and Mr. Royal, and they were in agreement that folding those environmental performance standards into the subdivision ordinance would be one fix short of doing County-wide zoning; and that the better way long term would be to have County-wide zoning.

Chairman Lucier stated potentially it could be a two-step process; it would take more time but would get something in place. Mr. Whiteheart stated they could take the performance standards for true environmental concerns and placing them as standards in the subdivision ordinance and in the Zoning Ordinance.

Chairman Lucier stated that he believed there was a general consensus to proceed in that way.

BREAK

The Chairman called for a ten minute break.

CLOSED SESSION POLICY

Chairman Lucier reconvened the meeting.

County Attorney Kevin Whiteheart stated an initial draft of a Closed Session Minutes Policy had been presented in September 2007, and one of the things that had come from that meeting was suggestions on areas that needed revisions. He stated the Board had suggested that John Graybeal, Esquire would be an excellent resource to consult with on these revisions; Mr. Graybeal had undertaken a complete review of the draft Policy previously considered; and, included in the agenda materials was a marked-up version of the draft Policy identifying portions of the Policy which were revised. Mr. Whiteheart stated that Mr. Graybeal would provide more detail of the revisions.

John Graybeal stated that many of the changes were minor editorial changes, but he would identify changes of substance: reference to the Open Meetings Law and the Public Records Law as resources for use by County officials and employees; the section entitled "Definitions" had been deleted as not necessary; Section 2.A was an attempt to state in the shortest possible form key concepts related to Closed Sessions; and, Section 2.B was a similar attempt as related to Public Records.

Chairman Lucier asked if as part of a Closed Session, the Board needed to try to determine when the Closed Session minutes could or should be released. Mr. Graybeal said yes, but Professor Lawrence suggested a system whereby every month someone should look at each set of minutes and determine if it was now time to release them.

Mr. Graybeal then described the various sections of the Public Records Law, noted under Section 2.B, as well as Section 4, Calling a Closed Session.

Commissioner Thompson asked what was meant by legally confidential information. Mr. Graybeal stated that term was not well-defined, noting the Open Meetings Law stated that a closed meeting could be held for specified reasons, the first of which was to prevent the disclosure of information that was privileged or confidential; if it was confidential pursuant to the laws of North Carolina, or of the United States, then it was confidential. He said an example would be a conversation with an attorney regarding a law suit where the attorney-client privilege should be maintained.

Mr. Graybeal called the Board's attention to Section 3.c, Closed Session to Discuss Confidential or Privileged Information, noting that the motion for a closed session for this reason must cite this as the reason and must also cite the name or the citation of the law that caused the

information in question to be privileged or confidential. He stated for example, a motion calling for a closed session to discuss a matter relating to a person receiving public assistance should cite NCGS Section 108A-80, which provides that public assistance records are confidential. Mr. Graybeal stated that David Lawrence's book gave other examples of statutes protecting the confidentiality of different kinds of information.

Mr. Graybeal then discussed Section 4, Closed Session Discussions, noting that "full and accurate minutes" and a "general account" must be kept of all closed meetings. He stated that in Section 5, Public Records and Responses to Public Records Requests, subsection b. talked about requests for non-existent documents; there is no requirement that a document that does not exist be created in order to comply with a public records request, nor is there a requirement that the format of a document be altered so that it can be produced in the format requested. Mr. Graybeal stated that Section 6 now carried the complete Open Meetings Law: Provisions Pertaining to Closed Sessions, and that Section 7 contained the Public Records Law: Certain Sections.

Chairman Lucier stated this was a lot of information to keep in mind, and appreciated Mr. Graybeal putting the information together, along with Mr. Whiteheart.

Gerald Totten, School Board Member, stated that the NC School Board Association had recently held a session on this material, and it was laid out in more layman's terms. He offered to provide a copy of that document to Mr. Whiteheart. Mr. Graybeal stated he would like to see that document, noting there may be aspects of it that might be helpful to this Board.

Chairman Lucier asked if this document should be approved or should they wait until they see Col. Totten's document.

Commissioner Cross stated he would like to see Col. Totten's document first. Mr. Graybeal stated he would like to take a look at it and see if some of it should be incorporated into the County's document.

Commissioner Thompson asked if Mr. Graybeal was suggesting they should wait to adopt this until after he studied Col. Totten's document. Mr. Graybeal stated he believed that would be useful.

Chairman Lucier asked Col. Totten to provide the document to Mr. Whiteheart who would share it with Mr. Graybeal, and they would then make a recommendation to the Board as soon as possible.

TOURISM AUTHORITY BOARD

County Attorney Kevin Whiteheart stated that Session Law 2007-318 authorized Chatham County to levy an additional 3% room occupancy tax, raising it to a total of 6%; there was a drafting error that omitted the requirement for a public hearing on the proposed additional tax and that the Board adopt a resolution to levy the tax specifying the effective date; due to the error, 2007-318 would need technical corrections by the State Legislature during the short session before the County could implement the additional 3%.

Mr. Whiteheart offered a PowerPoint presentation that provided an overview of Session Law 2007-318, provided as follows:

Overview of Session Law 2007-318:

Session Law 2007-318 brings Chatham County's tourism authority into compliance with the rules created by the Room Occupancy Tax Sub-committee of NC House Finance Committee. The Room Occupancy Tax Sub-committee has created operational and structural rules for counties which collect this tax. The rules are intended to bring fiscal responsibility and organizational uniformity to tourism authorities, since the funds being spent on travel and tourism are tax revenues; the usual fiduciary obligations inherent in the use of tax revenues are now superimposed upon the tourism development authorities.

New Legal Entity Needed.

The new legislation will require the creation of a new non-profit entity. This is due in large part to the fact that the Room Occupancy Tax Sub-committee has instituted auditing oversight by the NC Local Government Commission. Also, since the entity is the recipient of tax revenues, it must receive non-profit status from the Internal Revenue Service. IRS rules prohibit a § 501(c)(3) entity from having an interlocking directorship arrangement with or control by another entity.

Board Composition.

Session Law 2007-318 sets out the composition of the board for the new entity:

- One-third (33%) of the members must be individuals who are affiliated with businesses that collect the tax. These businesses include hotels, motels, inns and “bed and breakfast” operators.
- One-half (50%) of the members must be individuals who are “currently active in the promotion of travel and tourism in the County”.
- This leaves one remaining member whose qualification is not restricted under the legislation.
- One option would be for the Board of Commissioners collectively to appoint this member. Assuming the customary practice of creating odd-numbered boards, the membership of a nine-member board would look like this:

Hotels/Inns Members		
1	1	1

Active in Travel and Tourism Members				
1	1	1	1	1

BoC Member
1

Initial Board Members.

- The Board of Commissioners is given the authority to select the initial members to the authority and to appoint the initial chair of their board.
- SL 2007-318 does not address the length of the terms of service, but it is suggested that staggered terms would be best suited to maintain a continuity of service and experience.
- The Board of Commissioners would need to consider the process for selecting the initial members and the chair.

Ex Officio Members.

- SL 2007-318 requires the Chatham County Finance Officer to serve as the ex officio finance officer of the Authority. This provision is intended to keep the Tourism Authority’s expenditure of funds and its financial record-keeping and reporting consistent with the rules, regulations and policies of the Local Government Commission.
- The Board of Commissioners may want to create other ex officio members to the Authority as a way to maintain communications and to ensure coordination and cooperation of County initiatives.

Officers of the Entity.

Staffing of the Authority to handle day-to-day operations needs to be considered by the Commissioners. One option would be to have the director of the tourism authority be a County employee with reporting responsibilities and job classification parameters to be addressed. The County employee option has several advantages:

- It will ensure that proper financial controls are in place and allows the County to cover the administrative functions of payroll, human resources, and personnel policies; and
- It would afford the director the same benefit package, vacation, sick leave and other items. The tourism authority would not be able to offer benefits at the same costs as the County can provide due to our large employee base.

Frank Thomas, a citizen, stated he did not believe the definitions of one third and one half were mutually exclusive and asked if they overlapped. Mr. Whiteheart responded it was his understanding that they could not overlap.

Commissioner Vanderbeck stated he understood the point that the Tourism Board needed to be split off from the EDC, but he would be hard pressed for anyone to argue that a board member from the EDC was not currently active in promoting travel and tourism in the County; in that sense the ex officio could be the EDC Director or their assigns, and one of the Active in Travel and Tourism members could by definition be an EDC board member. Mr. Whiteheart said provided that board member did not trigger a response from the IRS that there was such a conflict that they could not give non-profit status.

Chairman Lucier stated then it could not be a majority of the EDC on the Tourism Board. Mr. Whiteheart said that was correct, or of any other entity.

Commissioner Vanderbeck asked, regarding the officers of the entity and how it affected the County Manager's decisions, had that been discussed, and could the County Manager or Assistant County Manager comment on that as it would pertain to the section on the officers of the entity.

Chairman Lucier asked if Neha Shah, Tourism Director, was a County employee. Ms. Shah responded that she was.

Chairman Lucier stated they were in a holding pattern until the General Assembly met in the short session and Session Law 2007-318 was corrected, and it made sense for the Board to be prepared once that happened; the questions they should think about were should a County employee continue to direct the Tourism Board, and how many people should serve on the Tourism Board; they needed to be consistent with the directive of from where those members came; and, they needed to make sure there was a geographic balance in the membership to serve the entire County. He stated he believed the Tourism Board was balanced at the present time in terms of geographic location, although there were likely not enough members.

Commissioner Cross stated he would like to have the geographic location verified of the nine members. Ms. Shah stated at present there were nine members, and several of them represented more than one area.

Commissioner Cross asked if the current terms were staggered. Ms. Shah replied that they were. Commissioner Cross stated they had a Tourism Board in place and he would not like to see anyone removed from it unless it was necessary.

Commissioner Thompson stated he understood that if it was the Board's intent to increase the levy from 3% to 6%, then they would have to comply with that law. Mr. Whiteheart stated that was correct. Commissioner Thompson said then if they choose not to increase the levy, they were fine as they were. Mr. Whiteheart stated that was correct.

Chairman Lucier stated as it worked now, the Tourism Board had operated with the same kind of authority. He stated the levy resulted in \$120,000 each year, which included salary, so if it were increased to 6% the estimated revenue would be \$240,000 each year. Renee Paschal, Assistant County Manager, stated that it would result in more marketing dollars to enhance tourism in the County. She reminded the Board that if the employee was not a County employee, they would have to duplicate administrative functions which would reduce the funds available for marketing.

By consensus, the Board decided that the Tourism Director should remain a County employee.

Commissioner Vanderbeck stated regarding whether or not they accept the authorization for the increased levy once it was given, he believed there was a discussion within the EDC to offer a recommendation on that.

Commissioner Thompson asked had the Chamber of Commerce endorsed the increase in the levy. No one knew the answer. Commissioner Thompson asked if anyone knew if they would make a recommendation one way or the other. Ms. Shah said she did not believe so.

Chairman Lucier stated the Board had already approved the increase in the levy, which was why it had been sent as a request to the Legislature.

Commissioner Cross stated the Board needed to be careful in asking the Legislature to approve something the County would not use.

Chairman Lucier asked Commissioner Thompson was he saying he might not support it. Commissioner Thompson stated he knew they had discussed it several times and had asked the Legislature to give the County the authority.

Commissioner Vanderbeck stated the Board's decision was based in part on the recommendation of the EDC at that time.

Commissioner Thompson stated he did have some trepidation, adding that just because the Board had approved requesting the levy did not mean they had to do it, or could not modify it; his concern was that they were looking at hard economic times, and that Siler City had requested that the County not increase the levy at this time; he had talked with some people in the tourism industry, and given that Chatham County did not have the amenities that other counties had, it was difficult to attract people to the hotels; some hotels had contracted with companies, sometimes as much as two years in advance, to provide rooms for its employees who had business in the area; and, he was concerned that the hotels would not be able to pass that additional levy on to the consumer because they had already contracted for the rooms.

Commissioner Thompson stated he believed the Board should give some consideration to them, understanding that they needed to increase the fund at some point, but that now might not be the time to do so. He suggested that perhaps they should stagger the levy to increase over a period of time.

Commissioner Barnes stated the 6% levy would result in a hotel room costing \$100 to cost an additional \$6, and did not believe that would stop people from using the hotel. Commissioner Thompson stated if the hotel owner had to absorb that additional levy, it could be costly. Commissioner Barnes stated if the room was \$50 that would mean only an additional \$1.50 in cost. Commissioner Thompson said over a year's time, it would add up.

Chairman Lucier stated he understood the concern, but the 3% would be an outstanding investment because he believed the hotels would more than recoup that by the County having an effective tourism department. He stated that at the present time Chatham County ranked last in the region on expenditures for tourism, yet they had 150 miles of shoreline with Jordan Lake, they had three rivers that ran through it, and other amenities that were attractive to visitors; yet, they had not done a good job of marketing those amenities. Chairman Lucier stated he believed that was all the more reason why this investment should be made.

Commissioner Thompson stated he agreed it was ultimately something they should do, but was concerned about the timing and whether or not the increase should be staggered over time. He stated he disagreed about the timing, noting that they were moving towards a recession.

Chairman Lucier stated in the letter that Siler City had sent to the County, they had said they were opposed to the levy because they had thought the funds would be used for the arts, which was misinformation. He stated the Board had explicitly voted not to earmark any of those funds for the arts or for any other purpose.

Chairman Lucier asked did the Board want to revisit the decision to move from a 3% levy to a 6% levy.

Commissioner Cross stated he did not. Commissioner Barnes stated he did not as well, adding this had been discussed recently by the EDC who had cited several different reasons to support the increase.

Commissioner Vanderbeck stated at the last EDC meeting, they were still in support of the increase. Jeffrey Starkweather, Secretary to the EDC, stated there was no vote but there had been general agreement. He pointed out that the County had invested funds in the art incubator, which was a tourist attraction, and he had heard from several art business owners that they believed the County would be promoting their businesses. Mr. Starkweather stated at a recent meeting in Siler City, there were citizens who had spoken about tourism and the effort to revitalize the downtown. He suggested that the Board might want to read the minutes of that meeting.

Chairman Lucier stated at this point, the Board needed to be thinking about the appointments, and whether they wanted to increase the membership; he suggested that they not decide today; it was fair to say that the current members could remain if they chose; and, they needed to look at representation from every sector of the County. He asked Ms. Burnett if she would be an ex officio member of the Tourism Board or a full member since she was a County employee. Tracy Burnett, Recreation Director, stated she was not sure.

Mr. Whiteheart stated he believed Ms. Burnett would be an ex officio member.

Commissioner Barnes suggested that the County Attorney be directed to begin drafting Bylaws for the Tourism Board. Mr. Whiteheart stated they needed to begin drafting the 501(c)(3) application as well as the Articles of Incorporation, noting that would take three to six months.

Commissioner Barnes moved, seconded by Commissioner Vanderbeck, to start on drafting the 501(c)(3) application and the Articles of Incorporation and to direct the County Attorney to draft Bylaws for the Board to approve at a later date. The motion carried four (4) to one (1) with Commissioner Thompson opposing.

Commissioner Thompson reiterated that he believed the timing was not good.

Chairman Lucier stated he believed the membership on the Tourism Board would be between nine and thirteen, but they would have to revisit that; and, Ms. Burnett's status on the Board would have to be spelled out.

SHERIFF'S REPORT

Sheriff Webster introduced Capt. Charles Gardner who had headed up the investigations on the recent racial incidents in southwestern Chatham County.

Capt. Gardner stated in October 2007 the Board had adopted a resolution pertaining to vandalism with racial overtones, hate crimes, and hate graffiti; part of that resolution requested that the Sheriff's Office notify the FBI and the SBI when any hate crime or hate crime incident occurred; the resolution also requested that when such incidents occurred that they were prosecuted to the fullest extent of the law. Capt. Gardner then provided a legal description of a hate crime. He stated that the Sheriff's Office now had a General Order that outlined what a Deputy should do when responding to a hate crime or bias motivator; it outlined the officer's duties and outlined the duties of the Patrol Supervisor, and how the incident was reported.

Capt. Gardner stated that last year, the County had four hate crimes or hate crime incidents; three were noted by Deputies who had found hate crime markings on roadways or signs; no suspects had been located; if a suspect was identified the only charge that could be brought was damage to property, destruction of property, or vandalism which was a misdemeanor. He stated the FBI had indicated that most of the crimes reported fell into those categories.

Capt. Gardner stated one incident had occurred in Moncure, where "KKK", "God Hates Niggers", and "God Damn Niggers" had been written on the roadway; that such writings would cause tempers to flare; that if a threat were included in such writings the person could be charged with intimidation; but, the loophole was that when such things were put on a sign or in a public area, if they could identify a suspect that suspect could be charged with damage to property, which was a Class 1 misdemeanor.

Capt. Gardner stated Commissioner Thompson had identified one incident that had appeared on a road sign; they had also had conversations about forming a Community Watch for that area; and, that everyone had to be diligent and report any information that would be helpful to the Sheriff's Office.

Chairman Lucier stated that as such incidents continue, he suggested that there be some interaction with the County's Human Relations Department; and that perhaps some of the impacts of such incidents could be addressed in specific communities.

County Manager Charlie Horne asked if the incidents were linked in any way. Capt. Gardner stated at least one was isolated, and he did not believe any of them were linked; and that they occurred in different locations and the writing was different.

Commissioner Thompson stated he was sure the Sheriff's Office was aware of any hate groups operating in the County, or had a good idea of who those persons were and the general area they were operating in. Capt. Gardner stated they did know of one individual who carried tattoos on his body that signified the Arian Nation, but generally it could be anyone.

Chairman Lucier asked if based on his experience, did Capt. Gardner think the type of gang activity he saw was something that might lead more frequently to hate crimes or racial problems. Capt. Gardner stated that with gangs it did not matter who you were, but hate crimes were directed at a particular group of people, whether it was Gays, Blacks, or Hispanics. He stated they were proactive in educating the public, and hoped that eventually they would be able to identify who these people were; that as more and more information was put out, he was sure it would lead to identification.

Commissioner Cross stated that several years ago through a national gang website, they had been able to identify several Chatham County high school students, and asked if they were still on that. Capt. Gardner stated he did not know, but now they used a Gang Net, which was a system that all the surrounding counties utilized; they could use that system to run a name or a tattoo or other identifying features through and receive a list of people who fit the description or marking; the Sheriff's Office also kept a file of identifying markings of various individuals for future reference.

Mr. Starkweather asked if the Sheriff's Office had anyone who monitored websites or chat lists for gang activity in the County. Capt. Gardner stated they had no one who was specifically assigned to do that, but they did periodically check particular sites, such as My Space, to help them identify gang members.

Chairman Lucier thanked Capt. Gardner for the update, and promised the Board's support in their efforts.

BREAK

Chairman Lucier called for a brief break.

NORTHEAST PARK MASTER PLAN

Chairman Lucier reconvened the meeting. He noted that Ms. Burnett would provide the Board with an update on the Northeast Park Master Plan, and that approval of that plan was necessary in order to apply for PARTF grant funds.

Tracy Burnett, Recreation Director, stated that this park consisted of 66 acres on Big Woods Road and had been recently purchased by the County; the County had then hired McGill Associates to design a district park facility for the site; and, four community meetings were held to solicit input on the project.

Commissioner Cross asked where the entrance to the park would be. Ms. Burnett stated it would be off of Big Woods Road.

Ms. Burnett described the vegetation and soils located on the site, and explained that water on the site drained to an existing pond; the needs identified at the four community meetings were active senior recreation programs, tree preservation, walking/biking trails, passive recreation, and sports fields/active recreation; the concerns identified were security/privacy issues, light pollution, soil erosion, noise, and preservation of bird habitats. She stated surveys were distributed throughout this process, and the primary needs identified were walking/hiking/biking trails, equestrian trails, playgrounds, and indoor/outdoor swimming pools.

Ms. Burnett stated the community center being proposed would be large enough to accommodate a gymnasium, some kind of fitness facility, as well as meeting rooms. She displayed a graph that ranked in order of importance the top ten facilities preferred to be developed in Chatham County based on the survey, with outdoor playgrounds, swimming pools,

biking, walking, and hiking trails, and a multi-sport complex ranking the highest. Ms. Burnett stated the consultants had taken all comments from the public meetings and the survey results into account, as well as the comments from the Project Oversight Committee; the consultants had then produced three alternative site plans and submitted them to the Recreation Advisory Committee; the Recreation Advisory Committee had narrowed those plans down to one that they considered to be the most feasible for the site and for the needs of the community; and, two additional public meetings were held on December 13th and January 2nd to talk about the Big Woods parcel.

Ms. Burnett stated after comments were received from the December 13th meeting, the plans were revised and were presented at the second meeting held on January 2nd; at that meeting it appeared that most attendees were pleased with the changes. She stated they would be applying for a PARTF grant in the amount of \$500,000, with the application for that grant due on January 31st; and that they were asking the Board's permission to apply for that grant at this time.

Ms. Burnett described Phase One, which would include the entrance road and associated utilities, a restroom/concession building, a 100-space parking area, a playground, a ¼ mile walking trail, a picnic shelter, a baseball field, and a multi-purpose field. She stated that future phases would contain additional utility and road infrastructure, as well as other park elements such as a recreation center, a restroom/concession building, parking areas, playgrounds, tennis courts, a multi-purpose field, picnic shelters, hiking/walking trails, a fishing pier, a disc golf course, mountain bike trails, wildlife habitat, and a maintenance building.

Commissioner Thompson asked what the projected cost of Phase One was. Ms. Burnett responded the total cost of Phase One was \$1.531 million, and if the PARTF grant were granted that cost would be \$1.031 million.

Chairman Lucier asked how the Clean Water Management Trust Fund played into that. Ms. Burnett stated that would be the second grant they would apply for. She said they would be applying for a conservation easement on 14.5 acres where the trails were located, and if awarded it would amount to \$217,000.

Chairman Lucier asked at what stage they would do an environmental assessment. Ms. Burnett stated it would be done in Phase One, and could be started after the PARTF grant application was completed.

Chairman Lucier stated that on the night's Consent Agenda, there were three grant applications noted for approval by the Board. He stated he believed they would want to move forward with the environmental assessment.

Commissioner Thompson asked were there other grants that the County could apply for, such as the one from Blue Cross/Blue Shield that had been used to build a concession stand, restroom, and picnic shelter at the southeast park. Ms. Burnett stated that grant was a three-year grant that would expire next year.

Ms. Paschal commented that the CIP had included the land cost, and some extra funds had been included for contingency.

Commissioner Barnes stated when they had done the southwest park, they had built the ballfields and then the restroom/concession area, so this time they would build the restroom/concession area first and then the ballfields. Ms. Paschal stated they would try to do it all in Phase One.

Chairman Lucier stated this would be approved tonight assuming the Board approved the Consent Agenda, so nothing would need to be done at this time.

Fred Royal said regarding the environmental assessment, typically they were done once a sketch plan was completed. He asked if the Board was asking for a full site environmental assessment or just a Phase One environmental assessment.

Chairman Lucier stated at least Phase One should be done, but Mr. Royal could decide. Mr. Royal stated it depended on the level of detail, noting what had been presented was a

concept plan so he did not know how useful it would be since it did not show actual footprints. He stated that could be discussed at a later time.

Chairman Lucier stated they would leave the timing of that to Mr. Royal and Ms. Burnett.

Commissioner Vanderbeck stated the environmental assessment might trigger changes to the concept plan, so the plan may have to be tweaked to accommodate the results of the environmental assessment.

GREEN BUILDING TASK FORCE

Alicia Ravetto, Green Building Task Force Chair, stated that the Green Building Task Force had approved the following recommendation for the Board's consideration and action: that the Board direct the County Manager to solicit proposals for an energy audit of all County buildings, including all school facilities, and to follow up on the results of such audit with the implementation of energy-saving technological improvements under a performance contract which guaranteed energy savings. Ms. Ravetto stated she believed the schools had already conducted an energy audit.

Chairman Lucier stated it would be important for the Green Building Task Force to receive a copy of that so they could review it. Col. Totten stated he would be happy to give them a copy, noting that Progress Energy would conduct an audit of public buildings if asked.

County Manager Charlie Horne stated they could check on that, but was not sure the audit that Progress Energy conducted was the same as a performance contract. Paul Konove, a member of the Green Building Task Force, stated a private contractor may find areas missed by Progress Energy, so it may be beneficial to have both done and compare them.

Col. Totten stated that Progress Energy had hired a company out of Raleigh to conduct the audit, and they had gone through every one of their buildings and come up with recommendation; the audit showed how much savings would be realized if each of those recommendations were implemented.

Ms. Ravetto stated that she had learned today that Progress Energy was seeking more engineering firms to conduct such audit, so now was a good time to do it.

Commissioner Vanderbeck asked if the studies included the payback time. Ms. Ravetto stated they would state payback times and guaranteed savings.

Chairman Lucier asked what needed to be done next. Mr. Horne responded they were ready to go forward with the process, but added he did not know if they could do the school facilities without the School Board's permission.

Chairman Lucier suggested that Ms. Ravetto get a copy of the audit already done by the schools, review it, and then decide if further auditing was needed. Ms. Ravetto stated she did not feel comfortable reviewing that, noting the County Manager would know more about implementing those strategies.

Chairman Lucier stated in the meantime they could check with Progress Energy to see what their services entailed, then perhaps the Board could make a decision on February 4th. David Hughes, Public Works Director, stated he had spoken to someone from Progress Energy about their energy audits, and believed they were very similar to what engineering firms offered. He stated the audit was done at no charge, then a list of recommendations and the cost to implement them was presented.

Chairman Lucier stated they would hear the presentation from the engineering firm on February 4th and also hear about the audits provided by Progress Energy.

Ms. Ravetto stated there was a second set of recommendations from the Green Building Task Force that would take somewhat longer to evaluate, that centered around Senate Bill 581 which allowed counties and cities to provide building permit fee reductions or partial rebates to encourage construction of buildings using sustainable design principles to achieve energy efficiency. Those recommendations were:

- that the County immediately take advantage of the authority granted under that law and provide fee reductions or partial rebates for such design principles to achieve energy efficiency;
- that the change be publicized on the County's website, in press releases, etc.;
- that building permit fees be raised sufficiently to fund a full-time County employee to coordinate green building initiatives;
- provide, if feasible, priority status in the scheduling of building inspections and environmental health inspections for projects that qualified for the reductions;
- provide in a highly visible form on the County website brief descriptions of all building projects in the County which have qualified for reductions; provide County website links to green building resources;
- institute an annual recognition ceremony for all builders who have qualified in the preceding year for reductions;
- direct the creation of a questionnaire to be completed by developers early in the planning process requesting information regarding levels of green building proposed to be incorporated;
- direct an evaluation of whether the Green Building Guidelines for Compact Communities may be legally revised to make mandatory some or all of those guidelines which are now "strongly encouraged" or "encouraged;"
- direct an evaluation of whether the Compact Communities Ordinance and the conditions imposed under the Zoning Ordinance for Conditional Use Districts may legally be reviewed to require that construction comply with certain criteria established under such nationally developed standards as the LEED for Neighborhood Development Systems or other residential green building programs;
- direct the Planning Board and the Environmental Review Board to conduct annual reviews of such nationally developed standards as the LEED for Neighborhood Development Rating System, with the goal of recommending the inclusion of such standards as may from time to time be appropriate in the pertinent County ordinances, plans, and policies;
- enact an ordinance that requires the recycling of at least the following construction and demolition materials: corrugated cardboard, clean wood, concrete/masonry products, and scrap metal; and
- encourage the EDC to support the creation of a private recycling facility for construction and demolition materials.

Ms. Paschal asked if there was a guideline that suggested how much the building permit fees should be reduced. Ms. Ravetto stated she was not aware of one.

Chairman Lucier stated they should probably ask the departments or advisory boards that would be impacted by these recommendations to review the recommendations and provide some input to the Board, then develop some systematic approach to deal with them.

Mr. Konove stated that Orange County for a number of years had been asking developers what their plans were in regards to waste management and the recycling of materials. He said they had an option where materials could go to a landfill or could be taken out of the County. Mr. Konove stated they could begin asking such questions of developers as a preliminary step to implementing a process.

Chairman Lucier stated he believed that was a good idea. He stated that in early drafts of the Compact Communities Ordinance, it contained some green building principles, but they had been removed in subsequent drafts.

Mr. Konove asked if within the next few months representatives from the affected departments could meet with the Green Building Task Force. Chairman Lucier stated that would be a good approach.

Commissioner Vanderbeck stated a separate recycling center had been brought up previously, and he was very supportive of it. He stated the recommendations were ambitious and it was certainly the direction he would like to see them go.

Chairman Lucier announced the new middle school was now back on schedule and included Green Building initiatives.

DEER RUN SUBDIVISION

Chairman Lucier stated this issue had been brought up at the summit by Commissioner Barnes, and discussion was postponed until today.

Commissioner Barnes stated that the Deer Run Subdivision had requested water; there were 14 households in that subdivision; all were willing to pay the \$4,500 tap sign-on fee, which amounted to \$63,000; the estimated cost of the project was \$150,000, leaving a balance of \$87,000 which would have a payout of 9 to 10 years. He asked Mr. Hughes to comment.

David Hughes, Public Works Director, stated there had been requests from individuals in the past, but nothing had ever been coordinated until now.

Commissioner Barnes stated the subdivision had lacked leadership in the past, but that was no longer the case; there were four individual wells that were close to drying up; and that two had already dried up.

Commissioner Cross moved, seconded by Commissioner Barnes, to approve the request for water hook-up based on the residents filling out the contractual form for water availability.

There was brief discussion among the Board about how other neighborhoods had been served in the past, and what processes had been in place to provide water when requested.

Commissioner Vanderbeck asked to verify the language in the motion. Commissioner Cross stated the motion was to approve the request for water hook-up based on the residents filling out the contractual form for water availability.

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

Commissioner Vanderbeck stated that he had some discussion with other Board members and the Public Works Director, and it was explained to him in looking at the policy approved by the Board in May of 2006 that this particular development was not qualified under this policy to have their water system subsidized as far as the County paying for them to hook up to the pipelines; that the subdivision could pay for the engineering and install the lines to hook up to the County lines; that it was at the discretion of the Board that they could be granted some forgiveness in the percentage of the availability fee; that it appeared that if it was done that it should be at no cost to the County; and, because they did have wells and that no lines were near them, that the County could consider giving the residents the percentage that was allowed to others, which was a 75% reduction.

Commissioner Thompson asked had they ever gone away from that policy and done something similar to what was being requested. Commissioner Cross responded they had gone away from the \$500 hook-up fee about two years ago.

Commissioner Barnes stated it seemed that the water policy had changed every day, and just about everything that could change had been changed.

Commissioner Cross stated under the policy the water districts were responsible for their own pipeline expenses as customers; this was not a water district but he believed they should still be responsible.

Commissioner Barnes stated that once the residents paid their \$4,500, their water usage would pay for the rest.

Commissioner Vanderbeck stated that was not what the policy said; the policy said that they would pay to connect to the pipeline, and at the Board's discretion they could forgive them a percentage of their available fee. He said nowhere did it say that the County would pay to arrange for them to connect to the pipelines.

Commissioner Thompson stated his question was had the County rescinded the policy, and if it had not, then how they could vote on this today.

Commissioner Cross asked did the policy refer only to water districts. Commissioner Vanderbeck stated there were sections of the policy that addressed districts and others that did not.

Mr. Hughes stated that the first page of the policy referred generally to water systems and not to water districts in particular. He said he was not sure they had done a water extension since the policy was put into effect.

Commissioner Barnes stated they had paid for water lines, noting they had paid for the water line going to Heritage Point. The County Manager stated that had been because at that time there was not a consistent policy, and did not believe an applicable situation had arisen since that time.

Chairman Lucier asked if there were any unsold lots in this subdivision. Mr. Hughes responded no, there were only the fourteen. Chairman Lucier asked if the average water bill for that area would be about \$50 per month. The Finance Officer responded that was about average. Chairman Lucier stated that would amount to about an eight to ten-year payoff, and everything after that would be profit.

Commissioner Thompson stated he was not against people getting water, but he did not want to set a precedent that would allow developers to come and ask for the same thing.

Commissioner Cross stated when they had laid lines for the districts, they had based it on twelve customers per mile, and this was fourteen customers, so he believed it fit with what had been done in the past.

Chairman Lucier stated all of these were good points, adding that millions of dollars had been spent running water lines throughout the County, which would significantly affect those property values. He stated he believed the policy needed to be revisited. Chairman Lucier stated you tended to serve the developers when lines were run throughout the County, so maybe they should cut a little slack to the people who already live here.

Commissioner Cross stated he believed this subdivision fit in with what had been done in the past. The County Manager noted these residents had been paying taxes for twelve to fifteen years. He stated that when revisiting the policy, they should keep in mind what might be done during droughts and rescue efforts if wells were to run dry.

Commissioner Thompson asked should they consider a new policy now that would be consistent with what they wanted to do so there would be no question in the future about something like this.

Chairman Lucier stated the policy definitely needed to be revisited, noting it was a different world now than when the policy was first written.

Commissioner Vanderbeck stated what they had just voted on was no matter who paid for it, that the residents had to be signed on and contracted to participate in subscribing to the water. He asked the Clerk to read the motion that had been adopted, and Ms. Sublett did so.

Commissioner Cross moved, seconded by Commissioner Barnes, to approve the resident's request for water as soon as they all filled out a water availability fee form.

Chairman Lucier asked how that was different from the previous motion. Commissioner Vanderbeck stated the original motion had not approved the actual request for water. He stated he would not be able to support the motion currently under consideration given the County's current policy.

Commissioner Thompson stated he believed they needed to revisit the policy and make sure everyone understood the implications before doing something like this.

Chairman Lucier asked was he uncomfortable with changing the policy. Commissioner Thompson said no, but he did not believe it should be done in a selective sort of manner. He stated what was now proposed appeared to run contrary to the policy.

Chairman Lucier stated he believed the policy should have language regarding a cost benefit analysis.

Commissioner Cross stated a cost benefit analysis had been done, and that was how they had determined there needed to be at least twelve residents per mile in order to install a water line.

Commissioner Thompson stated he did not disagree with that, but was saying the policy needed to be in place first.

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

Chairman Lucier stated that at the evening session perhaps they could add an agenda item regarding revisiting the policy.

ADJOURNMENT

The Chairman adjourned the Work Session at 5:02 PM.

George Lucier, Chairman

ATTEST:

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