

Chatham County Environmental Review Board (ERB)
Minutes for April 15, 2010
Dunlap Classroom

ERB members present: Elaine Chiosso, Tara Allden, Catherine Bollinger, Raj Butalia, Steve Wing, Lin Andrews, Vic D'Amato, Sonny Keisler, Martha Girolami

Staff present: Fred Royal
Commissioner: George Lucier

1. Approval of meeting minutes from February 18, 2010. Catherine moved to approve. Lin seconded. All approved. (There was no ERB meeting in March 2010.)

2. Public Input
None

3. Staff Report (Fred Royal)

a. Jordan Lake Buffer Ordinance

The County continues to work with Pittsboro on Stage 2 of the Lake Jordan Rules involving Storm water – Riparian Buffers. The County Watershed Ordinance has been modified in the section on buffers as required by the NC EMC. The change involves a new map of Lake Jordan buffers and their uses. A table will be included in the ordinance that lists buffer uses versus columns headed “exempt”, “allowable”, “allowable with mitigation”. This latter column will be supported with a section on how to mitigate buffer uses when this is required. This ordinance amendment must come to the ERB for review.

b. Cape Fear Coal Plant Visit

Fred’s site visit on November 13, 2009 assured him that there was no danger of release as occurred in Tennessee. Active ponds or pits were well bermed, surface and ground-water are monitored, the ash passes the TCLP test, levees protect the site from flooding since it is located in the Cape Fear flood plain. Now the site is regulated by NC Dam Safety whose engineers are well-qualified to inspect berms and levees. In 2017 this site will stop using coal as a fuel. Questions were raised as to how the ash ponds will be closed or maintained after the coal plant is closed. Elaine asked for ground water and surface water data (Warm Creek). Fred will email his report to us.

c. Natural Gas Exploration (Elaine)

Elaine passed around a brochure titled “Shale Gas Potential in the Triassic Strata of the Deep River Basin in Lee and Chatham...” Fracking is the method of extraction. In this process high pressure water, hydraulic fluid, other proprietary chemicals and sand are injected underground into the shale layer to release natural gas. This process contaminates groundwater and secondarily disturbs

land and creates process waste water. At present fracking is not legal in NC due to the state's ground water regulations. Jim Simons, Director of Land Resources, says there will be no new legislative rules created in the short session to deal with this and he is recommending that NC DENR move very cautiously on this issue.

4. Briar Chapel – Presentation on the 401 mitigation work
Newland Corporation was represented by Bill Mumford (project manager), Lee Bowman and Doug Brown. (Several members of the Planning Board were in attendance for the presentation.)

Mr. Mumford reviewed the history of their stream violations in 2007. In 2009 Newland hired Backwater Environmental Engineering to implement the required "Stream repair and stabilization plan" which has now been completed in the spring 2010.

Their consultants, Chris Huysman and Kelly Phillips from Wetland Natural Resources, discussed the required monthly and quarterly reports and inspections of the plan. Kelly showed photos of stream work to correct flow into several culverts by creating a defined stream bed, sloped banks, grade control, cross veins and scour pools.

Bill Sommers a Planning Board member objected that Newland did not make violation information available to the PB during recent approvals. Bill Mumford stated that Newland had disclosed information to the PB but recent approvals were independent of the permit process.

Elaine said that historically the PB did not look at permit compliance when considering approval of new phases of development, but she thinks it is appropriate and should be considered in the future.

This brought up a discussion of the need for Inter-board Review of Documents: Elaine, George and others discussed the need for Staff or someone to get compliance information to the proper boards. A formal procedure is also needed for advisory boards that are reviewing each other's documents. No procedure is in place at this time. Tara said that this topic needs to be an item at the next ERB meeting.

Chris said they planned to invite the ERB, PB, and Commissioners to a site visit to view repaired stream crossings at Briar Chapel.

Jim Hinkley, Planning Board, questioned whether a HOA was capable of handling such a large operation --- its lighting, stormwater structures, waste water treatment and irrigation, drainage, etc. Will it be able to rectify infrastructure problems?

Newland responded that the utilities would be sold to a third party; the streets would be the responsibility of DOT and there would be a maintenance bond and HOA Reserve fund. The HOA would take over when the project is 85% built in 7-10 years and would be responsible for stormwater structures.

5. Joint Chatham Cary Comprehensive plan update (Elaine)

In today's meeting, the discussion about the mixed use area located approximately at Jean's Berry Patch at Lewter Shop Rd. and Hwy 751 was postponed. Mapping data is now available. George noted that it is a mistake to call it "mixed use" since the site was always meant to be "an employment center" (perhaps a corporate headquarters). Other options are to do nothing at this site, change the location, let Cary recruit an industry headquarters. Elaine suggested a solar energy site.

Both Cary and Chatham boards must agree on changes to the joint Plan. A local bill approved by the Legislature is needed to prevent annexation without joint approval.

During the next meeting on May 18th, Sally and George must decide on which options to support.

6. Watershed Review Board Procedures (Tara)

Tara gave the ERB a copy of the updated "Watershed Ordinance Appeal Application" and "Appendix B Watershed Review Board Rules of Procedure Appeals, Variances". The ERB should read these now and be ready to vote on these documents in the May meeting. Tara was asked to flow chart the process. There was some discussion about whether the WRB must attend BOC meetings or only the WRB hearing. George will consult Jep and Fred.

7. Plant list revisions – final approval by ERB for Appearance Commission

Elaine moved to adopt this list. Catherine seconded. All approved.

8. Jordan Lake Round 4 Water Allocation update (Elaine)

A local government partnership is asking the state for more water to be allocated from Jordan Lake. The current model uses 100 MGD as the safe maximum withdrawal. To date 60 MGD are allocated with 52 MGD actively withdrawn. The partnership includes the current governments that have allocations (including Chatham) whether or not they are actually withdrawing water, plus some new municipalities including Pittsboro, Raleigh and Hillsborough (the latter two are not within the Cape Fear Basin and would be considered inter-basin transfers). The first step is to update the model and determine what is the current safe yield from the Lake. The NC Division of Water Resources is determining what should go into the model. Flow models will be used to give worse case scenarios such as predicting drought from climate change.

A USGS study is in progress on low flow and Elaine hopes participants will wait for the study results. There will also be new Ecological Flow Requirements coming from EPA.

9. Announcements, and updates from ERB members

a. Sludge: George said that the State preempts the Counties ability to regulate sludge application on its lands, but is not sure if notification is precluded. Legal advice was unclear on this subject. He feels that best approach is for the BOC to write a letter to the municipal sludge generators asking for (1) the monthly application schedule and (2) the 24 hour application schedule.

These would be sent to the Chatham Department of Health and put on their website. Steve noted that these documents should be made available since they are public records. Lin commented that farmers may worry about future regulation of spreading other materials that they generate like chicken litter on their fields. Steve emphasized that this request for notification is being made to municipalities. Catherine made the point that the concern is with sludge brought in from outside the farm and mostly from waste water treatment plants outside the county.

b. Rocky River: Sonny spoke about the river's status and impaired water quality, especially south of Siler City where nitrogen is very high. Several groups – DWQ and NCSU – will devote resources to collecting data.

c. Elaine – upcoming Haw River Festival May 1, 2010 in Saxapahaw, and Jordan Lake big clean up in conjunction with the Army Corps of Engineers on May 8, 2010. A new group has organized – “Clean Lake Jordan” - specifically for this purpose.

Catherine moved to adjourn at 9:20 pm. Tara seconded. All approved.