

**MINUTES**  
**CHATHAM COUNTY BOARD OF COMMISSIONERS**  
**WORK SESSION**  
**JANUARY 05, 2009**

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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 10:30 AM on January 05, 2009.

Present: Chairman George Lucier; Vice Chair Sally Kost; Commissioners Mike Cross, Carl Thompson and Tom Vanderbeck; County Manager, Charlie Horne; County Attorney, Jep Rose; Finance Officer, Vicki McConnell; and Clerk to the Board, Sandra B. Sublett

*Work Session Agenda*

1. **Congestion Mitigation & Air Quality Program Funds (CMAQ) Discussion:** Discussion of CMAQ funds for sidewalks in relation to the Highway #87 roundabout
2. **Zoning of Business/Industry Properties Discussion:** Discussion and Board of Commissioners’ direction on zoning of business/industry properties along major corridors for public hearing
3. **Capital Improvements Projects:**
  - A. Funding for the Briar Chapel Middle School
  - B. Other Capital Projects
  - C. Infrastructure Projects (for forthcoming federal stimulus package)
  - D. Harnett County as possible supplier of portion of Highway #42 and Truth Road
4. **Community Development Director Recruitment, Selection, Hiring Process**
5. **Clarification of getting items on Board of Commissioners’ work session agendas**
6. **Chatham County Human Relations Commission “Immigration Customs and Enforcement” (ICE) Resolution**
7. **Chatham County Agricultural Wall of Fame Presentation – Charlie Bolton**
8. **Legislative Goals Discussion**

The Work Session was called to order by the Chairman at 10:35 AM.

**CONGESTION MITIGATION & AIR QUALITY PROGRAM FUNDS (CMAQ)**

Ben Howell, Planner, stated that today’s discussion was a continuance of the discussion from the last work session; that the Rural Planning Organization (RPO) had Congestion Mitigation and Air Quality (CMAQ) funds available from the federal government left over from the 2004 appropriation; that the North Carolina Department of Transportation (DOT) had allowed for a fast-tracking process to fund projects if they were completely designed and engineered by August 30 of this year; that the RPO had about \$190,000 to be let; that they had identified two projects that could be melded into one project, both requested by the Town of Pittsboro; that the first project was to place sidewalks on the west side of NC #87 from Business Highway #64 up to the entrance to the new County library; that the second was to place sidewalks around the proposed roundabout at NC #87 and Old Graham Road at the entrance to the new County library; that the projects were to allow for pedestrian access from Business Highway #64 to the library and other facilities; that the cost estimates for Pittsboro’s portion of

the sidewalk from Business Highway #64 to the edge of the roundabout would be about \$69,000 with a contingency added of 10% for a total of approximately \$78,000; that there would be an additional cost of about \$12,000 for engineering, surveying and easement acquisition; that the estimate from the DOT for adding the pedestrian facilities to the roundabout would be about \$58,000, and with engineering costs included the cost would be about \$87,000; that the minimum amount DOT was allowing to be used for fast-track projects was \$100,000; that in order to meet that requirement the two projects would need to be combined; and, that the cost of the two projects when combined would be approximately \$136,000.

Mr. Howell stated that CMAQ funds were appropriated to the County, so the Board would need to give Pittsboro permission to apply for the funds; that the Board would need to determine if Pittsboro desired the County to share in the engineering and design costs or other costs; that if the project was accepted for fast tracking then whoever received the funds, whether it be the County or Pittsboro, that entity would be responsible for paying all engineering and design costs because they would need to be completed prior to August 30; and, that DOT would then submit the projects to the Federal Highway Administration on September 1 with the funds in hand to begin construction by September 30 which was the end of the federal fiscal year.

Chairman Lucier stated then someone, either from the County or Pittsboro, would need to pay the cost of engineering and design up front. Mr. Howell stated that was correct. Chairman Lucier asked if the engineering and design costs would be reimbursed. Mr. Howell responded no, adding that whoever did the construction would need to pay the costs up front; that he had already notified Pittsboro that because both projects were Town projects requested by the Town that they may be expected to pay engineering and design costs; that Pittsboro had not responded either way to that statement; and, that he believed it needed to be made clear whether or not the County would expect Pittsboro to pay costs associated with the two projects or whether the County was willing to contribute to the costs.

Chairman Lucier asked what decisions did the Board need to make today. Mr. Howell replied that they needed to respond to Pittsboro as to whether or not the projects would be endorsed by the Commissioners for CMAQ funds, and if so a resolution could be prepared for the Board's next meeting for consideration of adoption. He stated the Board also needed to be aware that DOT had not yet stated exactly when they would begin construction of the roundabout, noting that DOT did not want to begin that project until the library construction was completed or near completion; and, that may mean that timelines would not align properly for the projects to be funded with CMAQ funds, but at this point those were the two best projects they had identified for use of those funds.

Chairman Lucier stated then there were no other viable projects for which the CMAQ funds could be used. Mr. Howell stated that was correct, noting the RPO had offered their help in getting the two combined projects moving forward and helping Pittsboro with the application process. Chairman Lucier stated that the costs that either Pittsboro or the County would need to pay was the estimated \$8,700, with the rest being construction costs that would be reimbursed through CMAQ funds. Mr. Howell stated the \$8,700 was the engineering costs only for the roundabout, and then Pittsboro's sidewalk project would be additional. He stated Pittsboro did have Powell Bill funds for streets that may be used for those projects.

The County Manager stated Pittsboro did have Powell Bill funds, although he did not know how much. He asked when the CMAQ funds had to be expended. Mr. Howell stated for fast track funds that information had not yet been obtained, but they would be meeting with DOT representatives in January to ascertain that and other details of the CMAQ application process. He stated since the application was due January 31, they would be under a tight time constraint. The County Manager stated since the two pieces of the project could not be done at the same time, could they still be combined to meet the requirements for applying for the funds. Mr. Howell responded they would have to be. The County Manager stated if they did the first part of the project but because of timing DOT had not begun construction of the roundabout, would they still be reimbursed for the first part of the project. Mr. Howell stated that had not yet been made clear, and they would be asking those and other questions at the January meeting with DOT.

Chairman Lucier asked when the meeting with DOT was scheduled. Mr. Howell responded he believed it was January 14. Chairman Lucier stated he believed the Board needed to endorse moving forward with allowing Pittsboro to apply for the CMAQ funds. Mr. Howell stated one additional issue that had just come to light was that even though they were applying

for CMAQ funding through the fast tracking process for 100% of the construction costs, when the application was submitted a 20% match was required. He stated that DOT had indicated that the reason for that match was that even though 100% of the construction costs could be paid through CMAQ funds, it was not guaranteed that 100% of the costs would be approved, and if more project applications were received than anticipated they may need to parcel out the funding and require matching funds of up to 20%. Mr. Howell stated for that reason, they had to apply for the funding as if the 20% match was required, which would amount to \$27,000.

Chairman Lucier stated if they applied for the funding but did not get the entire 100%, could they then decline acceptance. Mr. Howell stated he believed so, but they would determine that at the meeting with DOT representatives. Chairman Lucier suggested moving forward with the application process and have Mr. Howell provide additional information after the meeting with DOT on January 14, at the Commissioner's meeting on January 21. Mr. Howell stated he believed that would be the correct way to proceed. He stated their plan was to give Pittsboro the okay to begin the application process and have them do the majority of the work since it would ultimately be their project.

Commissioner Kost asked would a resolution be brought to the Commissioners at the January 21<sup>st</sup> meeting. Mr. Howell stated that would be their plan, noting that the resolution would give Pittsboro formal authority to apply for the CMAQ funding.

Chairman Lucier stated then what they needed today was a consensus to go forward. The County Manager stated he believed the Commissioners would need not only to express a consensus but that they also indicate that Pittsboro would need to pay the engineering fees as well as some additional partnering with the County.

Chairman Lucier stated there were two potential costs, one being the approximate engineering costs and the other the 20 percent match. He stated there were three options: that the County pay it, that Pittsboro pay it, or that they split the costs.

Commissioner Vanderbeck stated it was Pittsboro's sidewalks and they would pay the design cost for that section, so it was basically whether or not the County would share the cost of the remaining \$8,700.

Commissioner Thompson stated if Pittsboro had Powell Bill funds available, his preference would be that the Board endorse the project and Pittsboro pay all the engineering costs. The County Manager stated he believed that should be the minimum that Pittsboro was asked to contribute.

Commissioner Cross agreed, but did not believe they should allow that to stop or delay the project since the County was the one that wanted the roundabout.

Chairman Lucier stated that was a good point, since they wanted the roundabout to serve the community college and other facilities. He stated for that reason he would not be opposed to sharing the engineering costs.

Commissioner Cross stated if it turned out that Pittsboro did not have any Powell Bill funds or other funds available, he would not be opposed to paying the engineering costs.

Chairman Lucier stated he would be agreeable to that, as did Commissioner Vanderbeck.

### **ZONING OF BUSINESS/INDUSTRY PROPERTIES DISCUSSION**

Chairman Lucier stated there were two major items that needed to be covered today, one being the capital projects and the other the zoning along the major corridors. He stated that the School Board had a retreat that began at 1:00 PM today and was interested in what the outcome of the discussion would be regarding capital projects as it related to Briar Chapel and other school projects. Chairman Lucier suggested they begin with the rezoning issues related to businesses along the major corridors, then at approximately 1:00 PM they switch to discussion regarding capital projects related to schools. He stated they could then come to the discussion of zoning along major corridors later in the meeting.

Jason Sullivan stated that today was a continuation of the discussion from November 20, 2008 regarding the possibility of zoning business properties along the major corridors; that two additional documents had been provided at the Commissioners' table; that the first was a letter from Ronnie and Glenette Vaughn regarding additional land to the north from parcel #10781 that they may want to have added to the rezoning request, pending the outcome of soil tests to determine suitability for a septic system; and, that the second was an index that divided the properties into four categories and sorted them by page numbers for easier reference.

Commissioner Kost stated that the index was greatly appreciated and the mapping of the proposed rezoning had proven to be very helpful.

Chairman Lucier agreed. He stated it was his understanding that there were a total of 80 properties; that there were nine that perhaps would require that the Commissioners do something different than what the property owners had requested in their affidavits; that those nine needed to be discussed prior to holding the public hearing; that there was another nine or ten cases which they had received no response from the property owners despite repeated attempts, and those properties would become nonconforming and the businesses would be allowed to continue operation and to expand over time as long as the use did not change; that there was another nine or ten that had requested to remain nonconforming; and, there was 52 that appeared to agree with the Commissioners' preliminary recommendation regarding rezoning. He suggested that the Board focus on those first nine properties where the owners were requesting something different than what had been suggested by the County, and not look at the remainder unless there was a specific property that one of the Commissioners believed should be discussed.

Chairman Lucier stated he believed that the public hearing would only involve the rezonings and not those non-conform cases. Mr. Sullivan responded that was correct. Chairman Lucier responded that would mean they would have perhaps 19 or 20 that would be involved in the public hearing. He stated that since representatives from the Schools were now present that the Board discuss capital projects related to schools at this time and then finish discussion regarding the zoning of business properties along the major corridors later in the day. The Board agreed by consensus.

## **CAPITAL PROJECTS**

### **Funding for the Briar Chapel Middle School:**

Vicki McConnell, Finance Officer, stated that the good news was that they could proceed with construction of the middle school immediately; that they had looked at the financial model and had run several different scenarios; that the number used regarding impact fees may not be reliable since impact fees were decreasing, but believed property tax revenue would make up that difference; and, that they were no longer considering the five cents as revenue neutral.

Chairman Lucier stated then in other words the five cents would be proportional to whatever the increase in property valuation was. Ms. McConnell stated that was correct.

Commissioner Kost asked if this would be true for all valuations from now on. Ms. McConnell stated that was correct, adding she had been very conservative in her estimated increases.

Ms. McConnell stated regarding the lottery figures, they had used the numbers provided by the State; that she would caution the Board that because of the economy, the State may decide to withhold some of those funds even though they were earmarked for education; that the total level of capital funding was \$157 million including the \$35 million just issued; that COPs would still be used to finance the Judicial Center and the high school; that depending on whether was money available they had left the Judicial Center in 2010 and the high school in 2012; and, that it appeared they would be able to move ahead in June 2009 with the library and the two Central Carolina Community College (CCCC) campuses with private placement if that money was available, likely from BB&T.

Chairman Lucier stated then what she had done was lump the library and the two CCCC campuses together for a total of \$18.5 million and she was assuming private money over 20 years, so she was taking a conservative approach and those projects would be starting in June of 2009. Ms. McConnell stated that was correct, unless something unusual happened. She stated

that before they proceeded with the CCCC campuses and the library that would take a look at them one more time before moving forward.

Commissioner Kost agreed, noting that between the end of 2009 and the next fiscal year the increase was only 10%, and she would suggest that they proceed as presented with the five cents not adjusted but that this decision be revisited. She stated by doing that they were actually taking money from general operations and putting it into the capital plan, and they were going to have some significant increases when those new facilities opened. Commissioner Kost stated she would like to revisit that and not make it an ironclad policy.

Chairman Lucier stated they could do that at any time, and they would be looking at the capital plan again during the budget process when they considered the budget and the property tax rate with the revaluation figures.

Commissioner Kost stated their assumptions for the model had been shifted and she understood they could adjust those assumptions at any time, but she was somewhat hesitant because of what the long term implications.

Ms. McConnell stated she was not as comfortable with that as she had been, but was comfortable with the projections for the school; and, that it was possible some federal dollars could be obtained for the schools and/or the library.

Chairman Lucier agreed, but that could not be assumed at the present time. He stated the earliest they could begin the school was March. Ms. McConnell stated that was when they would borrow the funds, so they would need to have bids in hand in order to go to the Local Government Commission in March.

Robert Logan, School Superintendent, stated the contractor was ready to go, and could start within three weeks of being given the go ahead. Ms. McConnell asked what amount was needed at that time. Superintendent Logan responded just over \$900,000. Ms. McConnell stated they could use impact fee funds for that and then pay their selves back, noting they had the ability to borrow up to \$27 million.

Chairman Lucier stated it was his hope that the bid would come in lower, at perhaps \$24 million, and if that was the case it would save the County about \$150,000 a year. She agreed they should move forward with the school but revisit the library and the CCCC campuses.

Commissioner Kost stated that the information indicated they would borrow the money for the high school in January of 2012 but believed there would also be architectural and other fees, and asked where those funds would come from. Superintendent Logan responded that at present the high school architectural fees could be paid out of funds the County had reimbursed to them for the middle school architectural design costs, adding they had already paid that \$316,000 fee. He added that payment did complete their capital cash flow ability to pay for any more design work out of their Fund Balance.

Commissioner Kost stated if the design work was partially done, did it make sense or save money to do all the work now rather than waiting until,. Superintendent Logan responded there would be a financial impact to stopping and starting, but could not say what that would be.

Ms. McConnell stated between the County's Fund Balance and the School System's Fund Balance she was not concerned about the design money, because they could use impact fees.

Commissioner Kost stated they were going to build the school, but the question was when, and her point was did it make sense to go ahead and complete the plans, or did they stop now and then figure out when to move forward and it ending up costing more.

Commissioner Vanderbeck stated he wondered with their talks with the bank regarding the property, how that would affect the plan if they were to be successful in obtaining additional property to include with the school site.

Chairman Lucier stated he believed it would make more sense to wait until they determined what those negotiations with the bank revealed, and if they were successful in

obtaining more property than the site plans would need to be adjusted. He added if they were not able to obtain the additional land, then they should move forward as quickly as possible.

Superintendent Logan stated during the interim they could talk with the architect to get an estimation of how much time they needed to revise the plans as well as an estimate of cost.

Commissioner Kost stated that would be her preference.

Commissioner Vanderbeck stated they would need to keep in mind that they had a certain window of opportunity to put the school construction off, but it may need to be rebid. Ms. McConnell stated they did have some flexibility, noting if they put the CCCC campuses off until next year that would be possible.

Superintendent Logan pointed out that building costs would likely increase if construction is put off one or two years.

Chairman Lucier stated right now they were getting their best estimates, and would likely add some amount to that if projects were delayed into the future. Ms. McConnell stated it would be helpful if the bids for the school came in under what they were estimating.

Commissioner Kost stated the site bid had come in under what was estimated by about \$1 million, so there was already some savings. Superintendent Logan stated the current estimate on the building was over the original estimate, so that had brought the project back to its original cost.

Chairman Lucier stated once they got the bids and saw what they looked like, they would have a better idea of how to proceed.

Commissioner Kost moved, seconded by Commissioner Thompson, to proceed with the Briar Chapel middle school using Impact Fees to pay for site development. The motion carried five (5) to zero (0).

Superintendent Logan thanked the Commissioners for their action.

Chairman Lucier stated they realized they would be on a tight schedule in terms of opening the school by August of 2010 and as they moved forward there would be inevitable challenges, and asked that the School System to keep the Commissioners informed. Superintendent Logan stated they would move forward with all due speed.

#### **Other Capital Projects:**

Commissioner Kost stated it was her understanding they would borrow the money for the library in June, and asked when that process would start. Ms. McConnell responded very soon.

David Hughes, Public Works Director, stated it would likely be two to three months. He stated they had a contractor selected and the contractor would need time to contact his subcontractors.

Chairman Lucier stated the largest question they had was whether or not they were going to ask for private funds or COPs. Ms. McConnell stated it would have to be private funds as there were no COPs funds available at the present time. Chairman Lucier stated but that could possibly change in the next few months. Ms. McConnell stated they would need to know that by the first of April.

Commissioner Kost asked who owned the land at the present time. Ms. McConnell stated that CCCC owned it, but they were in the process of deeding it to the County.

Chairman Lucier stated that would have to be done before they got the loan. Ms. McConnell stated that would depend on what was used as collateral for the loan. Chairman Lucier stated it was important to get the land transferred to the County. Ms. McConnell stated the issue was the State's interest in the actual CCCC campus, so there were some issues that needed to be worked out even though it was not a State building per se.

Jep Rose, County Attorney, stated that he believed the State would not have to consent to the financing.

Commissioner Kost stated it would likely have to go through CCCC's Board of Trustees and then go to the State. The County Attorney stated there was a State Board for Community Colleges.

Ms. McConnell stated it was her goal to avoid that by not using those buildings as collateral for the loan.

Commissioner Kost stated her point was that would take some time if it had to be done that way, which would delay the project.

Chairman Lucier stated they would need to work through that as quickly as possible and Ms. McConnell could come back to the Board when she was ready. Ms. McConnell stated once they determined the bank, which would likely be BB&T, they would work with the bank to determine what the collateral would need to be.

Commissioner Thompson stated that the community college wanted to see the projects moved forward as quickly as possible. He stated that in the future the community colleges would likely be counted on even more by the public to help train a workforce and as such would experience a shortage of classroom space. Commissioner Thompson stated that the Siler City facility was dilapidated to say the least, and the quicker they could move those projects forward the better it would benefit the County as a whole in terms of economic development and workforce development.

Commissioner Vanderbeck stated all of those projects were submitted for shovel ready status, so that may allow them to do the projects sooner if funds became available from the federal government; but, the availability of new money might well drive the price of construction up. He stated they should know by the spring if new money would be available.

Chairman Lucier stated as they moved further along they would have other decision points. He stated today they had only agreed to move forward with the middle school, so they would be revisiting the other projects as the financial situation became more clear. Chairman Lucier stated with the current debt model has borrowing the money in June and that could be accomplished without a tax increase.

Patrick Barnes stated that he and R. V. Hight were both on the Community College Board of Trustees, and he had brought up last year that the ownership of the land was to be turned over to the County and the Board of Trustees had agreed and had voted to approve doing that.

Chairman Lucier stated then they only needed to make sure that happened. Mr. Barnes stated yes, since the approval had already been voted on.

Ms. McConnell stated they were following up on that, but they still had the issues that needed to be settled with the State. Mr. Barnes stated it was his understanding it had to go before the Board for the State's community college system, and there had not yet been a formal request to the Board of Trustees for that to be done.

Commissioner Kost asked did they need to take that action, or was that premature. Ms. McConnell stated she would like to see what other kind of collateral they could use before doing that, noting the less they were involved with the State the less time it would take and the less strings would be involved.

Chairman Lucier stated he was sure that the Board of Trustees of the community college would work with the County to make that happen. Ms. McConnell stated she would be coming back to the Commissioners once she had obtained additional information.

Commissioner Kost asked regarding the Siler City campus, had all the planning and architectural work been completed. Mr. Hughes stated the driveway work at the entrance had not yet been completed.

Chairman Lucier stated importance of going forward with the Siler City community college building because it was an integral part of their marketing plan for the business park. Commissioner Kost agreed.

Chairman Lucier stated right now the three projects, the library and the two CCCC campuses, were linked as far as the borrowing plan went, and the Judicial Facility and the new high school would be separate.

Commissioner Kost offered her thanks to staff, stating she knew they had been pushed and they had come through by understanding that the middle school was the Commissioners' priority and they had made it happen.

Chairman Lucier stated they had made it happen without the need for a tax increase, and added his thanks as well.

**Infrastructure Projects (for forthcoming federal stimulus package):**

Chairman Lucier stated they were attempting to put together a list of shovel ready projects in case federal stimulus money became available. He stated the list included the community colleges, the library, the Judicial Facility, the renovation to Northwood, the new middle school and a variety of school renovation projects. Chairman Lucier stated it did not include renovations for the school bathrooms, but they should likely be included. Ms. McConnell stated the School System did have some issues with the Jordan Matthews bathrooms. Chairman Lucier stated there were some funds in the capital outlay program to be expended for that, so he believed that could be termed as shovel ready and should be added to the list.

Commissioner Thompson stated he had talked with the mayor of Goldston regarding the extension of the sewer line from Sanford to Goldston; that extending that line would enhance the solid waste infrastructure within the town of Goldston; that it was critical in order to enhance economic development in the western part of the County; that it was tied in with commercial development around Goldston and the expansion of residential within the Town; that the problem in the past was that Goldston did not have the funds to extend that line, and therefore could not do what was necessary within the Town; that he believed what they were really talking about was significant infrastructure for the County as a whole, and specifically for the western end of the County; that the extension of that sewer line would be a good project to include since it would not take significant time to make it shovel ready; and, that if money was to become available for infrastructure then they should at least broach the possibility of including it.

Commissioner Thompson stated if the Board would consider looking at enhancing infrastructure in the western end of the County, then now was the best chance for Goldston to receive the necessary funding to do what they needed to do within the Town itself.

Chairman Lucier stated Commissioner Thompson's points were good ones, and added that the issue had come up before and there were some cost estimates available. He stated it would cost about \$1.2 million to run the line from Sanford to Goldston, and the line should be large enough to accommodate some growth. Chairman Lucier stated the larger cost was the infrastructure in and around Goldston, and that could cost upwards of \$3 million.

Commissioner Thompson stated that Goldston had received a planning grant of about \$40,000 and Goldston had matched that with \$20,000 to hire a consultant to do some preliminary planning. He stated that the consultant had indicated the total cost would be just over \$4 million.

Chairman Lucier stated he believed the consultant was including the \$1.2 million to run the line, plus an additional \$3 million for the infrastructure to come up with an estimate of around \$4 million; that he and the mayor of Goldston had met with Speaker Hackney several months ago to request help with moving that planning grant forward; that \$4.2 million was the figure provided at that time; that they had said perhaps they could obtain grants for the \$1 million if it was associated with a business, or potentially the County could add it to its capital improvement projects; and, that the real difficulty was the remaining \$3 million for infrastructure in and around Goldston, because to make it sustainable the rates would be need to be set so high that the residents of Goldston would not want to sign up for it. Chairman Lucier stated for those reasons he believed adding that project to the shovel ready list was a good suggestion.



Commissioner Vanderbeck asked whether projects such as running a new sewer line from Sanford to Goldston, would require an environmental assessment. He asked what the approximate timeframe would be to get that done, because if it could not be done within the next year there would be no reason to add it to the list of shovel ready projects. Mr. Hughes stated he believed it would take a year or close to it, because once the environmental assessment was completed it had to be reviewed by the State.

Commissioner Vanderbeck stated you would also have to have a solid plan to submit with the environmental assessment. Mr. Hughes stated you would have to have a preliminary engineering report to submit along with the environmental assessment for review by the State, and the process would take a year.

Chairman Lucier asked what engineering work had previously been done. Mr. Hughes stated he was not aware of how far they had gotten.

The County Manager stated preliminary work had been done on design of the line and the preliminary design within the town of Goldston itself, but they had not gotten to the point of doing the environmental assessment because the company, American Molding, had financial problems.

Mr. Barnes stated that part of the engineering work had been done by Hobbs & Upchurch.

Chairman Lucier stated the question was whether of not to add the Goldston sewer project to the list of shovel ready projects; that the good thing about adding it was that it was in a separate category than the other projects already included; and, since they did not know what the details would be as far as receiving any infrastructure funding it would be wise to cover as many categories as possible.

Commissioner Vanderbeck stated that also begged the question again as to when they would meet with all the different municipalities, because he would not want to just consider Goldston and not consider Pittsboro or Siler City and the projects they may want to have considered. He stated he was certainly in favor of helping the municipalities out in conjunction with the County's Land Use Plan to help them grow which in turn would help the County.

Commissioner Thompson asked if the municipalities were submitting their own shovel ready list to the League of Municipalities. The County Manager responded yes.

Chairman Lucier stated then he assumed that Pittsboro would include on its list the upgrade to its wastewater treatment plan, noting that was why they currently had a moratorium in place, and Siler City may well include an upgrade on its list as well.

Commissioner Vanderbeck stated then would Goldston submit its part regarding the infrastructure in Goldston, and the County would submit on its list the line from Sanford to Goldston.

Chairman Lucier stated he believed they would need to work with Sanford and Goldston on that, which he believed would strengthen that proposal. He stated having the three governments working together on that project may give it more weight to be looked on favorably for funding. Chairman Lucier stated it was his understanding that Sanford was willing to work with them on that. The County Manager stated they had not talked to Sanford about that for a while, but in the past Sanford had had been excited about the possibility. He stated they had discussed at the staff level to have the line coming from Sanford be large enough to accommodate the people in the 401 development corridor as well as the Highway #421 corridor on the Lee County side.

Chairman Lucier stated that was consistent with the discussion they had held with Speaker Hackney regarding the planning grant.

Commissioner Kost stated that spoke to the importance of updating their Land Use Plan, because all of that had to be planned together.

By consensus, the Board agreed to add the Sanford to Goldston sewer line and Goldston infrastructure to the shovel ready projects list.

Commissioner Kost asked if the library wastewater reuse project should be included on the shovel ready list, which was estimated at \$888,284. Mr. Hughes stated they were working on the redesign of that system which should bring the cost down significantly.

Commissioner Vanderbeck stated he believed the estimate would be halved, at least. Mr. Hughes stated they would know when the bids came back in.

Commissioner Kost asked could it be added to the total project cost, knowing that the estimates would be refined.

Chairman Lucier stated he believed so; that their original estimate was \$400,000 plus, but the bid had come back at \$888,284.

Commissioner Kost stated that was the cost in the proposed Capital Improvements Plan. Mr. Hughes responded that was the real bid.

Chairman Lucier stated they had decided to rebid that when they had thought they would be moving forward with the library, hoping they could get it done for less, so they had not accepted that part of the bid for the library. He stated they were scheduled to rebid that this spring and were now preparing to do that.

Commissioner Vanderbeck stated if they could nail down that cost that would certainly help their financial model. He stated another thing not mentioned but still being talked about by staff was a potential pilot project for broadband access, which was a small dollar item. Commissioner Vanderbeck stated if at all possible he would like to have that added to the shovel ready list since he believed that to be a type of infrastructure that was a high priority.

Chairman Lucier asked if there was any disagreement with including that pilot project for broadband access.

Commissioner Kost asked did they have a cost estimate available for that project.

Commissioner Vanderbeck stated that would likely be sorted out soon, perhaps by the next meeting. The County Manager stated he believed that could be provided at the Board's meeting on January 21.

Chairman Lucier stated at the present time they had added four potential projects to the shovel ready list: the school restrooms estimated at \$1 million, the Sanford-Goldston sewer line with associated infrastructure in Goldston estimated at \$4.2 million, the constructed wetland at the library now estimated at \$888,284, and potentially the broadband pilot program.

Commissioner Kost stated regarding the restrooms for the schools, and referring to the 2008-09 capital outlay budget there was a little over \$13,000 for Jordan Matthews, and that in the proposed CIP the hot water projects for schools was noted. She asked what else was included in restroom renovations, noting she also had seen reference to a restroom trailer.

Chairman Lucier stated the point was whatever they had in the CIP was for the restrooms, and would be transposed onto their infrastructure request.

Commissioner Kost asked the Finance Officer if she was clear on that. Ms. McConnell responded yes.

Commissioner Thompson stated he was assuming that they would be talking with Sanford regarding sewer capacity to make sure they were still on board. Also, he said, was there anything they needed to have Mr. Hughes working on to get started on those projects.

Chairman Lucier stated he believed Mr. Hughes would be thinking about how to make that a viable option. Mr. Hughes stated he was sure he and the County Manager would be doing what was necessary. The County Manager indicated they were on track.

Commissioner Kost stated then the Board would be receiving an update at their January 21 meeting. The County Manager stated that was correct.

Chairman Lucier asked what the next step would be regarding the list of shovel ready projects. The County Manager stated they would be sending it to the Association as well as the LGC. Chairman Lucier stated at this point they had no idea in what form they would have to react to it. The County Manager stated they did not, but would be watching what came down from the new administration in Washington regarding the stimulus package. He stated at present there was a lot of focus on education and related infrastructure projects.

Chairman Lucier stated the reason for getting the list together was so that when the time came they could react quickly to whatever guidelines were established. The County Manager stated they had been in conversation with Congressman Etheridge's office, and would remain in contact with that office.

Jeffrey Starkweather, a citizen, asked would it be useful to bring attention to how they could achieve economic development by providing the sewer line between Sanford and Goldston, particularly a larger line that would accommodate potential economic growth.

Chairman Lucier responded it had been discussed. Mr. Starkweather stated in his reading of the proposed stimulus package it had stated that energy retrofits of existing buildings would be a priority, and he did not see any projects of that type listed except perhaps the renovations at the schools to upgrade the efficiency of the restrooms.

Chairman Lucier stated that was a good point, adding that the Goldston sewer line had been discussed on more than one occasion by the Economic Development Commission (EDC). Mr. Starkweather stated he only wondered about the specifics of how to make sure that project was given its best chance. Chairman Lucier stated that was a part of their major corridor ordinance in terms of that being an economic center, so that was consistent with any strategic plan the County had developed in recent years. He stated Mr. Starkweather's remarks regarding retrofitting and the energy efficiency of public schools and other public buildings was something they should consider.

Chairman Lucier asked was there a way to associate any cost to that, noting they did have the ongoing activity of trying to identify where their energy shortcomings were and the cost to address them through energy savings. He asked could any costs associated with that be incorporated into a request that would be consistent with the priority placed on energy retrofits of existing buildings as it related to the stimulus package. The County Manager stated there may be ways to link the two up, but the issue was that the schools projects may not be as shovel ready so more work would be required before they reached that point. He stated they would check on that and report back to the Board.

Commissioner Vanderbeck stated the school system expected to have those bids back to the County by the end of January or early February. The County Manager stated the documents were being finalized for the bid now, but did not remember when the deadline was for return of the bids.

Commissioner Vanderbeck stated regarding schools and their energy retrofit, there was a bill that was tied into the energy bill that stated that any State-owned building or any public building over 20,000 square feet had to meet a certain energy reduction by a certain date. He stated if the school was on top of that, then perhaps that could be submitted for consideration as well. The County Manager stated he would check into that.

Commissioner Thompson stated the reduction required was 30%.

Commissioner Cross stated regarding Goldston and the amount of sewage treatment they could get, he recalled that Sanford had previously said they could provide 100,000 gallons a day, which would have left some capacity for the town of Goldston, although he did not know how much Goldston would require. He stated that since that time, there had been a large mixed use development approved on the Sanford side of the Deep River on Highway #15-501, and he would suspect that the capacity available was not as much as first thought. The County Manager stated he had discussed that with Sanford, and there had been an invitation for people to buy into the system.

Mr. Hughes stated they had a design out right now for expansion of their wastewater treatment plant, and they had predicted they would have a significant amount of excess capacity once that expansion took place.

Commissioner Vanderbeck asked related to that, was Sanford holding out on making a determination of the water price pending on that proposed buy-in. Mr. Hughes stated no, that Sanford had already quoted a price on that.

Chairman Lucier stated he had gone through the map with Speaker Hackney, and the number being talked about was \$750 billion for the economic stimulus package. He stated if that was averaged out for every man, woman, and child in the United States it came out to \$2,500 per person. Chairman Lucier stated if you took the estimated population of Chatham County that would amount to \$157 million, which would completely cover all of their capital improvement projects. He stated he understood that President-elect Obama wanted to move away from the trickle down approach and use a trickle up approach, and there was no better way to do that than to give the money to local governments since they were at the bottom.

### **LUNCH BREAK**

The Chairman called for a short lunch break, with the meeting to resume at 12:45 PM.

### **CAPITAL PROJECTS**

Chairman Lucier stated they would complete the capital projects discussion with Harnett County water for Highway #42 and Truth Road, and then go to either item 4 or item 6, which was the Community Development Director position or the Human Relations Commission Immigration Customs and Enforcement (ICE) resolution. He stated they would then come back to item 2 which was the zoning of businesses in the major corridors, which would take some time. Chairman Lucier stated they would then need to address item 5, work session agendas, item 7, the Agricultural Wall of Fame, item 8, the Legislative Goals and item 9, the Closed Session regarding contracts.

#### **Harnett County:**

Mr. Hughes stated that regarding the water line down Highway #42, they had a new cost estimate that included the line from Harnett County down to just past the chicken houses as well as the line on Truth Road, noting that the total estimate was approximately \$230,000.

Chairman Lucier asked if that included the meters. Mr. Hughes stated it included the meter and the meter vault.

Commissioner Kost asked was that the meter at the County line? Mr. Hughes responded yes, that they would need to put in a meter with a vault. Commissioner Kost asked what the cost of that was estimated to be. Mr. Hughes stated about \$30,000.

Mr. Hughes stated they had taken that \$230,000 figure and plugged it into the spreadsheet, which basically showed a positive cash flow because they were not using Fund Balance but were borrowing the money.

Commissioner Kost asked if hydrants were included. Mr. Hughes responded that likely one hydrant would be included for flushing the system, but there was not adequate pressure for fire flow on that particular line.

Commissioner Thompson stated regarding the water project listed at \$22,200, was that based on the projected number of households for one year. Mr. Hughes responded yes. Commissioner Thompson stated that \$5,994 was noted as revenue. Mr. Hughes stated that figure came from the \$500 impact fee. He stated because the chicken houses were noted as 24 customers when it was actually only eight, he had had to drop the fee to \$162 to make the formula work appropriately on the spreadsheet.

Chairman Lucier asked would the County pay Harnett. Mr. Hughes stated that Harnett County would send Chatham a bill based on the meter at the County line at bulk rate, and that Chatham would then send out bills to the individual accounts. Chairman Lucier stated then what

Chatham was basically charging was \$600 a year for each of those 37 customers. Mr. Hughes stated that was correct, that when multiplied together that was \$22,200. Chairman Lucier stated under that scenario people would pay the Harnett County cost of \$1.95. Mr. Hughes stated they would be charged Chatham County's rate, which was \$7.00 per thousand, and then Chatham would pay Harnett County the \$1.95.

Commissioner Kost stated then the \$1.95 was used to determine expenditures. Mr. Hughes stated that was correct, noting that if that was coming from Chatham's plant the number would be \$2.37 which was their live estimate for treatment.

Chairman Lucier stated they would still have to pay Harnett County \$1.95 per thousand, and what Mr. Hughes had done was added in a \$600 a year/\$50 a month surcharge for each of the hookups. Mr. Hughes responded no, that the \$50 was the test fitted revenue. He stated if you used 5,000 gallons a month at \$7.00 a thousand plus the \$15 base charge, you ended up with revenue per account of \$50, which was the revenue they expected to make off each account.

Chairman Lucier stated functionally, for the figures to come out the way Mr. Hughes had described, they would be paying Harnett County, the water users would pay Chatham, and in addition to that they would be collecting another \$22,200 a year. Mr. Hughes replied that was the total cost. Chairman Lucier stated the water users on Highway #42 and Truth Road would be paying Chatham \$22,200 a year to make the figures come out the way Mr. Hughes had described. Mr. Hughes replied that was correct. Chairman Lucier stated then that was \$600 per the 37 hookups. Mr. Hughes responded that was correct, as was noted in the spreadsheet. Chairman Lucier stated then what they were doing was charging each water user \$600 a year in addition to the cost to Harnett County. Mr. Hughes responded no, that the customers were not paying the cost to Harnett County; that the \$1.95 per thousand paid to Harnett County was the cost Chatham would pay for the water. Chairman Lucier stated then what Chatham was charging was \$22,200 less \$4,329 for a total surcharge of \$17,871. Mr. Hughes stated that was correct, and debt service was paid from that.

Commissioner Thompson stated then the bottom figure on the spreadsheet was the profit after debt service. Mr. Hughes stated yes, after the cost of purchasing the water from Harnett County and paying the debt service.

Chairman Lucier asked what would be the result if the amount of water increased or decreased in terms of that debt. Mr. Hughes stated if it went up it was better, because if it went down they costs were be greater.

Commissioner Kost stated if it went down the break even point over the 20-year loan would be somewhere around \$41.00 per month, and after that the County would begin losing money. Mr. Hughes stated he believed that was correct.

Commissioner Kost stated it appeared to her that that there would be maintenance and repair costs for the line, in addition to paying \$1.95 per thousand gallons and that they were going to experience some additional costs other than what was shown for the cost of just buying water. Mr. Hughes stated they had not included other operational and maintenance costs, noting he had provided a simplified spreadsheet for today's discussion. Commissioner Kost stated she understood that, but wanted to see the entire costs because the margins in the figures were so tight. She stated there would be some line maintenance as well as the cost of billing and collection, which was not calculated in Mr. Hughes' figures, and those were real costs.

Commissioner Vanderbeck stated that each district should be able to justify that, adding that they were Enterprise Funds and were suppose to be self-supporting to some extent. He stated the closer they could make that work and refine the financial modeling, then the more acceptable it would be. Mr. Hughes stated he would modify the spreadsheet to include those details.

Commissioner Cross asked was that the same process used in the past. Mr. Hughes replied they had used the same model for Deer Run, but he would modify it to include more details.

Chairman Lucier stated he did not believe they were criticizing the way it had been presented, only that there were some things that would argue for more information. For instance,

he stated, what if the chicken houses went out of business and they suffered the loss of 15 customers. Chairman Lucier stated the other side was if the chicken houses stayed in business and additional residences were built along that road, then they would have underestimated the income. He stated there was uncertainty on both sides of the estimates.

Commissioner Kost asked did they know how many existing residents were on that 2.2 mile stretch not including the chicken houses.

Commissioner Cross stated there were 13 at present, but there were some under construction. Mr. Hughes stated he believed the number was about double that, noting that most of the residences were closer to the County line with just a few on Truth Road. He stated as was the case in Deer Run, they were basically saying that all the residents had to sign up, and since they had all paid the sign-up fee they were assuming they would all tie into the water line.

Commissioner Kost reiterated she looked at water as a business, and she needed to see the full expenditures related to the project including the cost of billings and collections as well as maintenance and any other operational expenses. She stated that if someone were to say from a public health view that there was a concern, then she would look at that differently.

Chairman Lucier stated he would like to move forward with this, even though the estimates did include some uncertainty. He asked what the Commissioners would like to do at this point.

Commissioner Kost stated she would not vote in the affirmative with what had been provided, adding that she needed to see the all the expenditures.. She stated if the additional information indicated that it made good business sense, then she would vote in the affirmative.

Commissioner Thompson stated basically there were other cost factors that Commissioner Kost wanted to have considered in the proposal, and suggested that those be incorporated into a proposal and that proposal be brought back for the Commissioners to consider. Mr. Hughes stated they did have time to do that, since Harnett County would take some time to complete the line.

Commissioner Kost stated she had understood it was delayed until 2010. Mr. Hughes responded the timeline had completion scheduled for the spring of 2010.

Chairman Lucier stated it made sense to move forward as expeditiously as they could so that the residents and businesses understood what would happen and the agreement with Harnett County could be finalized in a timely fashion. He asked if the additional information could be provided for the meeting on February 2. Mr. Hughes stated he believed that would be possible.

Commissioner Thompson stated that would be his preference.

Commissioner Vanderbeck stated he would like to move forward as well, bearing in mind that however they treated this district had to be replicated if necessary for other potential districts, so that everyone was treated in a consistent manner.

Chairman Lucier stated the way he understood the process the initial outlay would be the County's but they were paying for it over 20 years, so it was either revenue neutral or slightly revenue positive for 18 of the 20 years. Mr. Hughes stated that was correct. Chairman Lucier stated then they would delay action and Mr. Hughes would bring back the additional expense details at the February 2 meeting.

#### **CHATHAM COUNTY HUMAN RELATIONS COMMISSION "IMMIGRATION CUSTOMS AND ENFORCEMENT" (ICE) RESOLUTION**

Chairman Lucier stated that the Commissioners had received background material as well as a copy of the resolution, and a letter from Margie Ellison who was the Chair of the Chatham County Human Relations Commission (CCHRC).

Esther Coleman, Director of the Office of Human Relations, acknowledged the presence of CCHRC members, members from the Office of Human Relations, and other supporters of the resolution. She then made the following statement:

“I am pleased to represent the Chatham County Human Relations Commission this afternoon. The Human Relations Commission is concerned about the treatment of immigrants across North Carolina and the nation as a result of agreements between Immigration and Customs Enforcement, or ICE, and local law enforcement agencies.

To be clear, immigration enforcement is a federal responsibility; and there are programs seeking the assistance of local agencies that concern the Human Relations Commission. For example, an amendment to the Immigration and Naturalization Act, known as 287(g), allows local law enforcement to train with ICE and to be authorized to identify and detain those suspected of violating immigration laws. The intent of the provision was to allow law enforcement agents to detain immigrants who commit serious crimes and report them to immigration authorities for processing.

The Human Relations Commission is aware that several North Carolina counties and cities with detention centers have entered into such agreements. They are also aware that some of these local agencies may be going beyond the original intent of the amendment.

Chief among the concerns of the Commission regarding any contracts with ICE are the potential for the separation of families when people suspected of being undocumented are arrested and placed in deportation proceedings with children left behind, often US citizens.

Additionally, the Human Relations Commission is concerned about racial profiling as has been reported in other communities and the increased vulnerability to crime among immigrants who are afraid to contact local authorities when they are victimized. In bringing this resolution forward, the Human Relations Commission also aims to prevent the unlawful mistaken detention of American citizens or legal residents, the reluctance of persons in immigrant communities to report crimes, and potential violations of the civil rights and liberties guaranteed in the United States Constitution.

It is important to note that no local law enforcement agencies in Chatham County currently have sought Memoranda of Agreement with ICE. Moreover, the Human Relations Commission, in a cover letter to this resolution, commends both Chatham County Sheriff Richard Webster and Siler City Chief of Police Gary Tyson for their non-participation with ICE and expresses their deep appreciation for the commitment of all of Chatham County’s local law enforcement officials to protect and serve all residents, regardless of immigration status.

This resolution reflects the input of local officials and does not suggest that laws that these officials are sworn to enforce not be enforced.

Finally, the Chatham County Human Relations Commission appreciates your consideration of this resolution and hopes that the Board of Commissioners will stand with them as the resolution states: “in continuing its belief of *controlling its own destiny...while proudly preserving diverse cultural heritages*, the Chatham County Board of Commissioners stands in strong opposition to any local governmental agency contracting with the US Immigration and Customs Enforcement for the purpose of enforcing federal immigration laws.”

Margie Ellison, Chair of the Chatham County Human Relations Committee (CCHRC), stated she was asking for the Board’s consideration and approval of the resolution; that she was proud of the fact that Chatham County’s law enforcement bodies practiced non-participation in ICE; that their responsibilities were already stretched to the limit without adding additional federal responsibilities; and, that the resolution sent a clear message that all people would be treated humanely and with dignity and that Chatham County would be free of fear and intimidation.

Ted Dunn, resident of Fearrington Village, stated the original purpose of the amendment to the Illegal Immigration and Naturalization Act, known as 287(g), was to get felony criminals off the street; that Alamance County was involved in the program and their record indicated that in 2007 80% of arrests under 287(g) were for misdemeanors; that in Gaston County they reported that 95% of arrests under 287(g) were for misdemeanors; that those statistics indicated that the program was not working; that the program was expensive, noting in Wake County the cost was estimated at \$629,000; and, that since the program did not do what it was intended to do and was expensive, then it was not a wise way to spend the County’s money.

Tony Asion, Executive Director of El Pueblo in Raleigh, stated that he had spent 20 years in law enforcement as a State trooper in Delaware; that from a law enforcement perspective this was a great program, but the program had never been used as intended when 80% of the people being deported were deported because of traffic violations; that he consistently received calls from Latinos who stated they were being stopped by law enforcement and their money taken away, or that they could not report a crime because they were not documented; that there had been occasions when a parent was deported for a traffic violation and their children were left behind; and, that he urged the Board not to enter into any agreement under Section 287(g) and that they adopt the resolution before them.

Chairman Lucier stated he supported the resolution, but had some suggested revisions to it and believed other Commissioners did as well. He stated his belief that for Chatham County to get heavily involved in immigration was a mistake.

Jerry Markatos, 800 Rock Rest Road, Pittsboro, Resolutions Chair of the Chatham County Democratic Party, stated he was proud that Chatham County was the county that had generated the anti-NAFTA resolution that went before the State Executive Committee in 1993; that even though the Platform Committee had rejected it the Chatham County anti-NAFTA resolution had been passed unanimously at the State Democratic Convention; and, that he was pleased to see that Chatham County was poised to keep the County in the leadership role of reaching for better outcomes, better planning, and better economic decisions, of which the proposed resolution was a part.

Commissioner Thompson stated that as the liaison to the HRC he had had the opportunity to work with the HRC to craft the resolution, and the reasons why the Board should approve the resolution were clear; that this country did not have a comprehensive immigration policy; that for the reasons already stated Chatham County did not need to get involved in immigration; that Chatham County needed to send a message to the surrounding counties and to the State that they would not support the Illegal Immigration and Naturalization Act Section 287(g); that he commended the members of the HRC for their work and the excellent job they had done in crafting the resolution; and, that they had more than enough documentation for the Board to act in favor of the resolution.

Commissioner Vanderbeck asked if Commissioner Thompson as the HRC liaison would be comfortable discussing some of the revisions that had been suggested to him during the Board's earlier break. Commissioner Thompson stated he would, and believed now was the appropriate time to do that.

Commissioner Vanderbeck stated he was very supportive of the proposed resolution; that there was some language that a few of the Commissioners did not feel was necessary to be contained in the resolution in order to get the point across; and, he wanted to add his thanks to those who had given so much of their time in crafting the resolution.

Commissioner Thompson referred the Board to page 3 of the resolution, the fourth "Whereas" paragraph, where it listed the 8 local governments; that it was likely not necessary to name the counties involved in the program since it was not significant to what they wanted to accomplish; and, if that fourth "Whereas" paragraph was omitted then the next "Whereas" paragraph, which was an accompanying paragraph, should be omitted as well. Commissioner Thompson stated on the stop of page 4, the first two "Whereas" paragraphs were again not significant to the message they were trying to send and should be omitted; and, that the third "Whereas" paragraph was not pertinent as well and should be omitted. He stated those four paragraphs should be omitted, and he believed a majority of the Board was comfortable with the remainder of the resolution.

Commissioner Vanderbeck stated he supported those deletions, noting the resolution would still retain the full force and send the correct message. He suggested that the resolution should be a stand alone resolution and the other collateral paragraphs should be separated out.

Chairman Lucier stated the Board's resolutions were customarily stand alone documents, so the second document would then be the background information and justification supporting the resolution. He stated he agreed with the removal of the four "Whereas" paragraphs as stated by Commissioner Thompson, noting that by deleting those it actually strengthened the resolution



and allowed focus to be placed on the fact that Chatham County was a diverse County and they were proud of that diversity, and wanted to honor it and not disrespect it.

Commissioner Thompson asked should the document be sent back to the HRC for further discussion, or would the Board be comfortable adopting the resolution with the deletion of the four "Whereas" paragraphs as noted. Ms. Coleman stated that there were several HRC members present, and from her perspective she believed they would be in agreement that they would like to move forward and have the Board adopt the resolution as amended.

Commissioner Kost states she supported the resolution, and thanked the HRC for its work.

Commissioner Thompson moved, seconded by Commissioner Vanderbeck, to adopt **Chatham County Resolution #2009-02 on the Federal Immigration and Customs Enforcement (ICE) Program** with the deletions as stated, and to make it a stand alone resolution with the justification and documentation information separated out as a separate document. The motion carried five (5) to zero (0).

Roy Stawsky, an Hispanic resident of Chatham County who worked as an interpreter, stated that today he was very proud to be a resident of Chatham County; that as he worked in the community he got the sense that there were great people living here, and adoption of the resolution proved that; that adoption of the resolution would mean much to those Hispanic residents living in the community by eliminating fear and distrust; and, that what the Board of Commissioners had done today had made history and would touch many lives in a positive way.

Martin Spritzer, Human Relations Commission member, stated that he was very proud to be a member of the HRC and echoed the remarks made by other HRC members; that he wanted to recommend that everyone view a new DVD entitled "The Visitor" that depicted the trials, tribulations, and tragedies of the whole immigration system; and, that after looking at that DVD he believed they would better appreciate the good that had been done here today by adoption of the resolution.

Ronald Garcia-Fogarty, Executive Director of the Hispanic Liaison, stated that he wanted to thank the Commissioners for adopting the resolution, stating he believed it to be a wonderful moment not only for Chatham County but for the State as well; that he hoped this was a first step, noting that the Hispanic population was living in fear and suffering due to the lack of jobs; that there were still people who could not access the services they needed so there was still progress to be made; and, that the actions taken today were a good step towards accomplishing much more.

Chairman Lucier thanked the HRC and all those who had come in support of the resolution.

### **COMMUNITY DEVELOPMENT DIRECTOR PROCESS**

The County Manager provided some background on the process, stating that there had been some interest in changing the title from Community Development Director to Sustainable Communities Director, to which they had no objection; that the person who would fill that task would have a sizable job of fitting all of the ordinances together into a process where the applicant would understand the process and what was required; that they had advertised for applicants and had been successful in that; and, that their next step to be considered today was to hire a consultant.

Carolyn Miller, Human Relations Director, introduced Anita Badrock, Vice President of Smither & Associates, and Doris Friend, Staffing Director for Smither & Associates; that Smither & Associates was the consulting firm they had selected for this process; that the company had much experience working in the Triangle area, adding they were based in Chapel Hill; that Smither & Associates were very aware of many of the issues that were specific to this region; and, that they believed they would benefit from Smither & Associates' expertise to get the best person for this unique position.

Ms. Miller stated she had provided to the Board a copy of the job description and the advertisement, and Ms. Badrock and Ms. Friend were both available to answer any questions.

Anita Badrock stated they were pleased to be working with the County and its staff in locating their new Community Development Director. She stated that their method in approaching this search was based on their understanding that this was a new and unique position and represented a significant shift in form and function of their County operations; and, that today they were present primarily to listen to whatever questions or suggestions the Board might have and to let them know they were ready to get started by engaging the Board in the process in a significant way. Ms. Badrock then provided some background information on her firm.

Commissioner Vanderbeck stated that he was very interested in the process as well as moving it along; that he wanted to put something to rest because it continued to come up again and again; that he believed there was consensus on the Board that they did not want the position to be referred to as Community Development Director because that pulled in the wrong kind of energy; that this was a cutting edge position and Chatham County was known for its sustainability with its community college program, their Green Building Task Force, and their more progressive ways of protecting the environment as well as transportation, affordable housing and other issues; that they wanted to attract the best and brightest people who could think outside the box; and, that he wanted to make sure that was communicated. Ms. Badrock stated she agreed, noting that was one of the first things communicated to them by the County Manager and the HR Director. She stated she believed the job description was excellent in the way it defined the duties of the position.

Commissioner Vanderbeck stated he saw that position as one that would stay apprised of the latest trends in main street-type developments and smart growth, and stayed on the cutting edge to enable them to blend all of those issues together. Ms. Badrock stated one of the first things they wanted to do was to sit down and have individual conversations with each one of the Commissioners to get a better idea of their individual vision for that position and to put that into context of what their goals were for the County. She stated they wanted to start at the beginning, and a part of that was understanding what the Board saw this position as being; and, that they would be asking for perhaps about 90 minutes from each Commissioner in order to compile that information so that they could be sure that what they were looking for was on target and in line with what the Board saw as the role this position would play in their governmental operations.

Chairman Lucier stated this was a new position, so they did not have the luxury or problems associated with looking at past performances or how the job might have evolved over time; that this new position really reflected the will of the citizens of the County; that the Commissioners sitting today were elected based on platforms that contained a key component of integrating a number of activities within County government; that they were a growing County and with growth came the need from time to time to change the structure of County government; that it was important that in advertisements and the search for candidates and the subsequent review and interview of candidates that that be reflected; that what they were seeking was someone who was expert in some but not all varieties of tasks that were listed; and, that most of all it required someone who was capable of demonstrating very good managerial skills and who had demonstrated the ability to integrate diverse activities such as Green building, planning, transportation, affordable housing, permitting, environmental resources, and other important issues. Chairman Lucier stated a number of ordinances had recently been adopted that would guide the County into the future with more amendments to come to bring them more into the 21<sup>st</sup> century, so this was an extraordinarily important position to the County that would expand the role of government. He stated for that reason the Commissioners were more actively involved in the recruitment for this position than they had for any others with the exception of the County Manager. Ms. Badrock stated his comments were well noted.

Commissioner Kost stated she understood the first step would be to talk individually with the Commissioners and that as a result the process might change somewhat. She asked what the typical process would be to find the right person for this high level position. Ms. Badrock responded they would begin by understanding the context the individual would operate in and why the position was needed; that they would then identify what the expected outcomes would be so that they could create a position statement and a candidate profile to make sure the right person had those kind of skills, capabilities, and aptitude to bring to the position; that they would involve all stakeholders in the search, so it would be important to identify them and engage them appropriately in the search process; that they had a recruiting network that was normally used, some of which was traditional but some that was not; that as they identified candidates that showed promise they would develop questionnaires; and, that they may create a pre-interview

panel that would go through the questionnaires and perhaps conduct telephone interviews so that they could define a slate of solid finalists that the County could then interview and choose from.

Ms. Badrock stated it was important to note that there was no typical process because every community had individual needs and they wanted to emphasize a process that would meet the needs of Chatham County; that the use of assessment centers had proven to be very helpful during such a recruitment process, as well as interview panels, so that the County Manager would have all the necessary information to make a decision and selection that brought the right person into the position who had all the skills the County needed and who had the ability to be successful in the position. She stated the conversations with Commissioners would be private, but the information would be compiled and presented to the Board because it was important that they all knew what the priorities and expectations were for the position. Ms. Badrock stated she believed the process would take months, and that from what she had heard it was very important to find the right person.

Chairman Lucier stated they understood that the process would take some time to hire someone for a position at this level, and that it would also make sense to have an interview panel to help identify the best candidate or candidates.

Commissioner Kost stated she was pleased to see that the process would be molded to fit the particular needs of Chatham County. Ms. Badrock stated they had already begun compiling information regarding those needs.

Commissioner Vanderbeck asked that once that information was compiled and they developed a candidate profile, would they come up with an assessment as far as salary range and what they might expect. Ms. Badrock stated that was correct, adding that they had been given the hiring range and based on what she knew now she believed they could hire the person the County wanted within that range, although she would reserve the right to change her mind.

Commissioner Cross asked what the salary range was as it now stood. Ms. Miller replied the range started at \$67,000 and topped out at around \$100,000.

Chairman Lucier stated Ms. Badrock would let them know if salary became an issue. Ms. Badrock stated that was correct, noting that was one of the decision points the County Manager would have. She stated the Commissioners would be receiving phone calls shortly to schedule meeting times, and hoped to have those meetings take place within the next two weeks.

Chairman Lucier stated they understood the entire process may take as long as six months. Ms. Badrock stated that was correct, noting that they understood the sense of urgency to get the right person on board. She stated if everyone adhered to the timelines that were set forth then she was confident they could have someone on board within six months. Chairman Lucier stated he believed that was reasonable, and six months for a high level position was expected. Ms. Badrock agreed.

Ms. Badrock stated that she and Ms. Friend were very pleased to be present when the Commissioners adopted the resolution regarding the Immigration and Naturalization Act, known as 287(g), adding it was very meaningful for them.

Ms. Miller stated they would be returning to the Commissioners periodically throughout the process to provide updates.

### **AGRICULTURE WALL OF FAME**

Charlie Bolton, Agricultural Advisory Board Chairman, stated before talking about the Agriculture Wall of Fame, he wanted to provide an update on other issues; that the Piedmont Value Added shared use food processing facility in Orange County had received a Golden Leaf Grant which was contingent on identifying a management entity and a plan for how the center would operate under conditions of revenue shortfall; and, that they wanted to offer thanks from Alamance, Orange, and Durham for the help that Lisa West had provided in the grant application process which was their in-kind contribution.

Chairman Lucier stated he believed the total amount of grants received to date totaled about \$900,000. Mr. Bolton replied that was correct, noting they were very close to their goal.

He stated another related item was an article in today's paper written by former Congresswoman Eva Clayton on nourishing the State's economy and how important it would be as they came out of the recession if they all purchased local food and processed it locally.

Mr. Bolton stated regarding the Farmland Protection Plan, it would not be complete until June, and the Agricultural Advisory Board was asking that the County hold off on any new agricultural-related ordinances until that Plan was completed.

Chairman Lucier stated the Board had delayed consideration of an agricultural district in their last round of ordinance reviews, and had ask that the Agricultural Advisory Board develop recommendations for that district that could be considered by the Planning Board and then by the Commissioners. Mr. Bolton stated they appreciated the opportunity to provide input.

Mr. Bolton stated regarding the Wall of Fame, several Ag Board members had been interested for some time in recognizing some of the County's pioneers in modern agriculture and sustainable practices. He stated a proposal had been drafted to recognize seven or eight people the first year and having the Agriculture Advisory Board making the final selections; that the Extension Service had agreed to house the plaques; that possibly they would hold a dinner in honor of the recipients to recognize their achievements and contributions; and, that they understood the concerns over the economic downturn so they were proposing that any expenses be paid for through private contributions. Mr. Bolton stated this kind of program was outside the scope of the Ag Board's normal duties, and they were therefore asking the Commissioners' permission to pursue the recognition program.

Chairman Lucier stated then today the Ag Board was asking for the Board's approval of the concept, but not of a specific plan. Mr. Bolton stated that was correct, and he would provide a copy of the final draft of the plan to the Commissioners. Chairman Lucier stated his initial reaction was that agriculture had been such a bulwark of the County that they should find an appropriate way of honoring that, and he would be in favor of approving the program.

Commissioner Vanderbeck and Commissioner Thompson both stated they were in favor of such a program, as well.

Commissioner Vanderbeck asked that Mr. Bolton provide the draft to the Commissioners as soon as it was available.

Commissioner Kost stated the wall should also have information that explained what was being honored. Mr. Bolton responded that was already planned.

Chairman Lucier stated the presumption was that it would be added to from time to time so that it would stay up to date. Mr. Bolton replied that such information would be provided. He thanked Commissioner Vanderbeck for serving as the Ag Board's liaison over the last few years, noting that Chairman Lucier would soon be their new liaison. Mr. Bolton stated the Ag Board would be meeting on January 13 to finalize the draft proposal.

### **ZONING OF BUSINESS/INDUSTRY PROPERTIES**

Jason Sullivan stated that the first order of business was to discuss the nine properties that perhaps would require that the Commissioners do something different than what the property owners had requested in their affidavits, the first of which was parcel no. 5971 owned by Frank Foushee. He stated they could then discuss any additional properties the Commissioners wanted to include.

Mr. Sullivan stated that in his affidavit Mr. Foushee had requested that the entire parcel 5971 zoned to Heavy Industrial, and he also wanted to include parcel 70612 which was an adjoining tract of land. He stated that at the November 20 meeting they had identified that one acre parcel 5971 was being used for gas tank storage and was being taxed as Heavy Industrial, and it was recommended drawing a boundary line which would be a deviation from what Mr. Foushee had requested. Mr. Sullivan stated from what they could determine the remainder of the property was not being used.

Commissioner Thompson asked how much acreage they were talking about with that extended line. Mr. Sullivan stated he believed it was two to three acres.

Chairman Lucier stated that was about right, adding that the whole piece was about 10 acres. Mr. Sullivan stated that parcel 70612 was about 7 acres, and Mr. Foushee was asking for a total of 17 acres to be rezoned.

Commissioner Kost stated that the maps were very helpful, because that was the only commercial use in that general vicinity.

Commissioner Vanderbeck stated then that section would be in addition to the seven acres for a total of 17 acres. Mr. Sullivan replied yes, that was Mr. Foushee's request.

Chairman Lucier stated Mr. Foushee was presently using roughly one acre for Heavy Industrial use. Mr. Sullivan stated that was correct. Chairman Lucier asked if everyone agreed with placing that boundary line where shown.

Commissioner Vanderbeck stated they would be tripling the amount of land zoned Heavy Industry. He asked if there were conditions that would be placed on the use of the property. Mr. Sullivan stated the notation shown was just a way to indicate to him that additional information had been added to the affidavit. Commissioner Vanderbeck asked did the County have any conditional rights on those properties or could they have for the future as to what the property could be used for. He stated he understood they had a table of heavy industrial uses, but wondered if that would be affected if the property was sold. Commissioner Vanderbeck stated he believed at the public hearing that adjacent landowners would be able to speak up regarding the uses of that property, and those property owners would be notified regarding the date of the public hearing. Mr. Sullivan stated all adjoining property owners would be notified about the public hearing. He stated as far as applying conditions, all the properties going to public hearing were being considered under general zoning districts and the Board would not be able to apply additional conditions to the approval other than the size of the area zoned.

Commissioner Vanderbeck asked since the property had not yet been rezoned e was there no grandfathering, and that the ordinances just adopted would be applicable to this new general use zoning district. Mr. Sullivan stated if the property was changed to some other use, then the new ordinance standards would apply. He stated the only ordinances that would apply were the landscape provisions and lighting since it would then be in a zoned area.

Commissioner Vanderbeck asked would they go through each property individually and then see which would go to public hearing.

Chairman Lucier stated he believed they should first go through the nine properties singularly, and ascertain whether they would go with what they had, orrecommmend something different, or defer it. He stated they needed to reach some resolution on this particular piece of property as to what they intended was to take to public hearing.

Commissioner Vanderbeck stated at a prior hearing there was some question that the parcels were all one parcel and Mr. Foushee should be able to expand across all the lots. He stated he believed they needed to have some legal review of that as they went forward. Mr. Sullivan stated one of the issues Mr. Foushee had brought up was that the two parcels were actually recorded and recombined into one tract of land, but the tax records showed two separate parcels. He stated he had searched the Register of Deeds data for the latest plat which did show two tracts of land, and he was not able to find that a combination plat had been recorded.

Chairman Lucier stated whether or not they agreed with Mr. Foushee's assessment was not relevant to this discussion, that it could be brought up at the public hearing. The County Attorney responded that was correct.

Commissioner Kost stated that if after the public hearing a strong case had been made, could they zone the rest Conditional Use Industrial-Heavy. Mr. Sullivan stated a Conditional Use request would have to be initiated by someone other than the Board. The County Attorney stated the property owner would have to initiate that request.

Mr. Sullivan stated one other issue was that the boundaries shown to go to public hearing could be reduced but could not be increased, and if this parcel went to public hearing in this configuration they could not expand it to include the entire tract unless they had shown the entire tract as being zoned Heavy Industrial in the public hearing notice.

Commissioner Kost stated she believed that would be sending the wrong signal, and they were better off not doing that.

Commissioner Thompson asked what the rationale was behind the current proposal.

Chairman Lucier stated you would have to remember they had a variety of requests and they were trying to achieve some consistency. He stated with this particular lot, it was 17 acres and was primarily in a residential area, and to expand the zoning to the entire tract may seem to be a good idea but at the same time expanding it only somewhat would give flexibility in use in the future for some other type of business activity. Chairman Lucier stated with all the information on this particular property, this was the best starting point for the public hearing.

Commissioner Thompson stated then you could conclude that further expansion could be achieved in the future if a request was received.

Commissioner Kost stated the question was where you drew the line.

Commissioner Vanderbeck stated they wanted to make sure it was not arbitrary, that they did have some consistency.

Commissioner Kost stated they had tried to be consistent, but if there was an area where that did not take place it needed to be addressed.

Chairman Lucier stated they should move on to the next parcel. Mr. Sullivan stated the next parcel was Moore's Machine Shop off of 421; that the Moore's had requested that the entire tract be zoned Light Industrial; and, that the Planning staff believed that only a small portion of the tract should be rezoned rather than the entire tract.

Chairman Lucier stated they had struggled with this one, and they had made the current recommendation based on the location of the creek.

Commissioner Vanderbeck asked if the area recommended for rezoning was the area where the buildings were located, or were there tanks underneath the other area. Mr. Sullivan stated he did not know if that area was a part of the wastewater treatment system. Commissioner Vanderbeck asked was that the company that had moved to Sanford.

Commissioner Thompson stated they had moved to Sanford. He asked how many acres they were talking about.

Chairman Lucier stated about 16 acres, and it would leave about six acres of that 22 acre tract.

Commissioner Kost stated they had to estimate where the septic was located based on the aerial map, , but the main concern was the creek.

Commissioner Vanderbeck stated maintaining the buffer made sense, and agreed with having the creek as the consideration

Chairman Lucier stated they needed to move on to the third parcel. Mr. Sullivan stated that parcel was proposed to be zoned Light Industrial, and the Vaughn's would be working with Environmental Health to determine suitable soils for a septic system.

Commissioner Vanderbeck stated that the original notes stated that if necessary the owners would use the adjoining lot. Mr. Sullivan stated the outcome of that was that the larger tract had not been evaluated, and they had not found any suitable soil for a septic system; that they did have an existing system on one tract that the Health Department would honor, but it may not be sufficient for the intended use and the intended number of employees; that Mr. Vaughn had indicated there was another existing system that had been serving a mobile home on that property, and the Health Department had indicated they would honor that system as well; and, that Mr. Vaughn would have to locate the system and provide that information to the Health Department.

Commissioner Vanderbeck stated then the septic would also be included in the Light Industrial zoning. Mr. Sullivan stated that was correct; and, that Mr. Vaughn may end up combing the two tracts, which was another issue.

Commissioner Kost asked what the total acreage was. Chairman Lucier stated the old lot was .8 acre, and by doubling it that would make it about 1.6 acres, but Mr. Vaughn had proposed something different than that, which would result in two triangular pieces about the same size. Mr. Sullivan stated it was the owner's intent to have only one piece be zoned Light Industrial.

Commissioner Vanderbeck and Commissioner Thompson stated they were okay with that.

Mr. Sullivan stated the next tract was Marion Self-Storage, parcel 60115, off of Highway 64 which contained a self-storage warehouse as well as a cell tower; that the owners had requested that the entire parcel be rezoned to Light Industrial; that they were currently using only about one-half of that tract; and, that the owner intended to extend the self-storage warehouses on the property.

Commissioner Vanderbeck asked if cell towers could be located in RA-40 zones. Mr. Sullivan stated they had to be Light Industrial. Commissioner Vanderbeck stated then it made sense to square the area off to take in the cell tower.

Chairman Lucier stated that was what they had done, but had not included the entire property as the owner had requested. Mr. Sullivan suggested that they adjust the lot line so that it was 50 feet from the edge of the tower, and that would make the zoning conform. Chairman Lucier agreed that was a good idea.

Commissioner Kost stated just to the east of that lot was a parcel that would be nonconforming. Mr. Sullivan stated that was a Progress Energy site and they had not responded to the mailings. Commissioner Kost stated also to the east was the Jenkins Gas property with gas tanks zoned Industrial Heavy, so what you had in this area on 64 was Heavy Industrial, nonconforming, and Light Industrial. Mr. Sullivan stated this was one where the owner did not want the entire tract rezoned. Commissioner Kost stated then they were just shifting it to the west to make sure they included the cell tower.

Angie Birchett stated that she would ask that be done for any property looked at; that if they had the opportunity to make the setbacks conform with the Zoning Ordinance then that should be incorporated wherever it could apply.

Mr. Sullivan stated the next parcel related to service; that there were two tracts, one with the business on it and an adjoining track to the north with some gas tank storage; that the owner, Mr. Howell, had requested that the entire parcel 63897 be zoned B-1 although only a small portion of the parcel was used.

Commissioner Vanderbeck asked what the normal setbacks would be for a tank, his point being that if it was extended to the intersection would most of that be useable space. Mr. Sullivan stated the owner would need 20-foot setbacks.

Ms. Birchett stated that was for B-1, and she did not know if the Fire Marshal would require an addition to that.

Commissioner Vanderbeck stated he would like that to be determined. Mr. Sullivan stated that there was more than 100 feet there.

Chairman Lucier stated he believed it was closer to 150 feet, adding he believed that intersection appeared to be an appropriate place for B-1 zoning.

Commissioner Kost stated that the property across the street was Heavy Industrial.

Commissioner Thompson stated there was other nearby properties that were Heavy Industrial.

By consensus, the Board agreed to that designation.

Commissioner Vanderbeck stated Mr. Sullivan's notes indicated he would be meeting with Mr. Schultz soon. Mr. Sullivan stated that was correct. Commissioner Vanderbeck stated the choice for that property was either nonconforming or Light Industrial. Mr. Sullivan stated that Mr. Schultz wanted to discuss with staff his long term plans, indicating he may have some desire to reappportion his property in some way to cut out the area where the house was located. Commissioner Vanderbeck stated that property contained a house, a small Quonset hut, and then a small septic area; and, that there had previously been an issue when a road was planned to be cut that it would not leave the necessary clearance for the tank so the road plans had been abandoned. Mr. Sullivan stated Mr. Schultz wanted to meet with staff and go over his options.

Chairman Lucier stated he had no problem leaving some of that parcel as RA-40. Commissioner Vanderbeck agreed.

Commissioner Kost asked if after the staff meeting with Mr. Schultz he decided he wanted to leave the parcel nonconforming, was that okay with the Board.

Chairman Lucier stated it was not the Board's choice if someone wanted to leave it nonconforming. Mr. Sullivan stated the Board could rezone it against the wishes of the owner to Light Industrial to make the lot conforming.

Commissioner Kost stated she believed that was what they should do.

Chairman Lucier stated they would wait until after the owner met with the staff to make a determination.

Mr. Sullivan stated next was the Gains Oil Company property; that Mr. Gaines was requesting that the additional parcel they owned around this tract be added to the rezoning. He indicated the location of the railroad line on the map.

Chairman Lucier stated right now the parcel was 3.4 acres, so the whole tract would be about 10 acres. Mr. Howell stated the entire tract was between 8 and 10 acres, but at the present time there were two parcel numbers assigned in the Tax Office. Chairman Lucier stated the reason for the recommendation was for consistency with Mr. Foushee's property, who had also wanted to add on another lot.

Ms. Birchett stated that parcel was 8.6 acres, so the whole tract would be about 11 acres.

Commissioner Thompson stated he understood the point of consistency, but did believe that that whole 11 acres was suitable for Heavy or Light Industrial due to its proximity to 421.

Chairman Lucier asked was he advocating rezoning the entire tract. Commissioner Thompson responded no, that it was important to maintain consistency.

Commissioner Vanderbeck stated once water was available then the property would become more valuable, and the owner would still have the option of requesting a rezoning in the future.

Commissioner Kost stated that was another indication of how critical it would be to update the Land Use Plan and to steer development to where it made the most sense.

Chairman Lucier asked was the Board comfortable with the recommendation for that parcel. There was no disagreement from the Board. Chairman Lucier stated then they were ready to discuss the eighth parcel.

Mr. Howell stated that parcel was owned by Patterson Enterprises who had requested that the entire tract be rezoned to Light Industrial, but they had also indicated they would settle for only a portion, noting they also had two residences on the tract.

Commissioner Vanderbeck stated that property had a shared driveway, and heavy equipment was used on the property.

Chairman Lucier stated he believed what was recommended was the best approach, noting the owner would have to pay a higher tax rate if they rezoned the whole parcel.



Mr. Sullivan asked would they need to think about rezoning all the way up to the main road, even though it was not a part of this tract.

Commissioner Kost stated she had wondered the same thing, and asked if they knew the ownership of that tract.

Commissioner Cross stated there appeared to be an easement access on each side.

Chairman Lucier stated perhaps they needed to check on that before making a decision. Mr. Sullivan stated he believed the property was owned by the father and son, Robert S. Patterson and Robert H. Patterson.

Commissioner Kost stated then the shared driveway would need to be zoned the same. The County Attorney stated they were likely okay to rezone that, but he would like to think about it because normally zoning would apply to a building, structure, or facility and not in terms of a driveway where trucks would move up and down with nothing permanent affixed to the land.

Ms. Birchett asked would it make a difference if there was not a deeded easement for the Pattersons' to use that flag lot driveway to access a business property. Mr. Rose stated not in terms of the zoning, but it would in terms of their right to get to the property in that manner. Ms. Birchett stated if they did not have access, then would they have a problem with crossing residential property to get to a non-residential use. The County Attorney stated he did not believe that was a problem.

Chairman Lucier stated they needed to hold off on their decision until they received more information.

Commissioner Vanderbeck stated if the access passed legal muster he had no issue with the recommendation.

Commissioner Kost agreed, noting she would be okay with rezoning the driveway if necessary but would prefer to leave it as is.

Chairman Lucier stated then he believed that would be the Board's preference unless there were access issues. The County Attorney stated the only issue would be if the access was restricted in some way, but again that was the owner's problem and not the Commissioners.

Chairman Lucier stated they needed to move to the ninth parcel. Mr. Sullivan stated that property currently had no structures but the owner had vested rights to continue to use the property; that the owner had discussed with staff the various uses that could be made of the property, most of which would work under B-1 zoning; and, that one or two of the uses considered would require Light Industrial zoning and the owner had been asked to provide information in writing but none was received.

Commissioner Cross stated the owner had originally planned to put a boat repair shop on the bottom right-hand corner of the property, but now wanted a sheet metal and air conditioning repair shop.

Commissioner Vanderbeck asked would the use Commissioner Cross just explained require Light Industrial zoning. Mr. Sullivan replied the owner was requesting Light Industrial zoning, and he believed they could proceed to public hearing with that.

Commissioner Kost asked what was being requested for the remainder of the property. Mr. Sullivan replied he assumed it would remain B-1.

Commissioner Kost asked why there were vested rights when there was no improvement to the property.

Commissioner Cross stated there had been improvements, that water and sewer lines had been installed. Mr. Sullivan stated in their conversations with the owner he had a site specific plan for the property although no plans had been submitted for review. He stated there had been an erosion control plan submitted and approved and a permit received from Environmental

Health to install a partial system. Mr. Sullivan stated he believed the lines had been installed but not the tank.

Chairman Lucier stated assuming he did have vested rights the plan he had developed was consistent with B-1. Ms. Birchett stated that was the determination that was made.

Mr. Sullivan stated the sheet metal shop had come up after the notices had been sent. The County Attorney stated the use would have to be something that was a legal use at that time, and there would be no vested right to anything else.

Chairman Lucier stated then if they said B-1, there would be no vested right for something different than that. The County Attorney responded that if it was unzoned there were vested rights for almost anything, although the Board could limit the use to what had been shown on the plan.

Chairman Lucier stated it was a B-1 plan, and that was his point.

Mr. Sullivan stated the plans submitted to Environmental Health would lead them to assume a B-1 zoning because it was B-1 uses. The County Attorney stated the Board could limit him to those uses only and not anything else under B-1.

Commissioner Cross stated he wanted to make sure that this property was not being treated differently than any others being considered.

Chairman Lucier asked in how many cases the Board had decided something other than what the current zoning was. Mr. Sullivan responded only one came to mind, on 421, where the Board had recommended Heavy Industrial and the owner had requested Light Industrial. He stated he knew of no instances where the zoning had been changed to something that was inconsistent with the current use.

Chairman Lucier stated that this one was different because there was no current use.

Commissioner Cross stated there had been instances where the Board had given property owners options. Mr. Sullivan stated when letters had first gone out with the affidavits they had included the staff recommendations for zoning, and he did not recall anyone asking for a different zoning because they were conducting business that was other than what the County thought they were conducting. He stated the letters had stated the properties had been zoned RA-40, and asked if the owners would like to make their properties conform by having a more appropriate zoning designation.

Chairman Lucier stated what they were doing was trying to properly zone to provide more flexibility rather than to have properties nonconforming and having to keep the same business. Mr. Sullivan stated that if this property were zoned Light Industrial, it would still accommodate all the uses the owner had already been approved for, so rezoning would extend those uses beyond B-1.

Commissioner Thompson stated in other words, rezoning to Light Industrial would satisfy the uses the owner had been considering. Mr. Sullivan stated that would go beyond what the owner had obtained vested rights for.

Chairman Lucier stated his inclination would be to rezone to Light Industrial the one piece, but not the entire tract.

Commissioner Kost stated it appeared from what the County Attorney had said that the vested right was under the B-1 use.

Chairman Lucier responded that was correct. Mr. Sullivan stated that was the staff's determination as well.

Commissioner Vanderbeck asked if changing it to Light Industrial would open some other doors.

Commissioner Kost stated that was what she was worried about, noting she did not want to create a gateway to other uses. She stated it was important to note that the surrounding properties were all residential.

Commissioner Vanderbeck stated if they remained with the vested right B-1 zoning then they were being more consistent with what they had done with other properties. Mr. Sullivan indicated there may be others who would make similar requests.

Ms. Birchett stated there was at least one other property owner who would be requesting straight B-1 zoning, as two others had done previously.

Chairman Lucier stated they could not presume what the outcomes would be of those other rezonings, but looking at this property and its location he believed it was in the long term best interest of the County for it to be B-1.

The County Attorney asked what the property owner's latest request was. Mr. Sullivan replied he was requesting B-1, but a letter had since been received by staff where the property owner was requesting Light Industrial for a sheet metal shop. The County Attorney stated the property could remain B-1, or could be rezoned CU and the Board could place conditions on it.

Commissioner Vanderbeck stated the overlying issue was the Board's desire to maintain consistency in the area, and it appeared that B-1 was the most consistent zoning. The County Attorney agreed there was a certain rationale to that, noting that the vested rights were for a B-1 use.

Commissioner Kost asked was the County Attorney saying that the property could be Conditional Use Light Industrial with the Board placing specific conditions on it. The County Attorney responded that was correct, but the property owner would have to request it and would have to agree to the conditions.

Commissioner Vanderbeck stated if the entire tract were rezoned Light Industrial the property owner would have a heavy tax burden, and the property owner had kept the area he was requesting to be rezoned small.

Chairman Lucier asked how the Commissioners wanted to proceed. The Commissioners agreed by consensus to go to public hearing with B-1 zoning for this property.

Chairman Lucier stated pages 10 through 18 had no response from the property owners and would therefore remain nonconforming. He stated for pages 19 through 28, the owners had requested that their property remain nonconforming, so would not go to public hearing. Chairman Lucier stated he assumed that the Board was comfortable with pages 10 through 28 not going to public hearing and remaining nonconforming. There was no objection from the Board.

Chairman Lucier stated that left pages 29 through 80 which would proceed to public hearing as requested. Mr. Sullivan stated that the only exception was on page 48, parcel 11005 owned by 3M which had been overlooked and had not been included in the initial notifications. He stated they had now provided the packet of information to Plant Manager Tony Aulisa, which included an affidavit to rezone the portion of the property fronting on Sanford Road to Heavy Industrial. Mr. Sullivan stated that staff had not received any further correspondence from 3M.

Chairman Lucier stated the current use was Heavy Industrial, and it was his understanding that the property on Pittsboro/Moncure Road would remain RA-40. Mr. Sullivan stated that was what had been discussed. Chairman Lucier stated then they would wait to hear back from 3M and staff could bring that to the Board's attention, but for now they would go with what was currently shown.

Commissioner Kost asked about next steps.

Chairman Lucier stated they needed to schedule a public hearing, and as part of that would need to contact adjacent landowners; that the hope was that those properties could be handled in a fairly efficient manner; and, that there were only about 60 that would go to public hearing. Chairman Lucier asked for pages 29 through 80, could they do an en masse public

hearing. The County Attorney asked exactly what was happening with those properties. Chairman Lucier stated those property owners had responded by affidavit that they would like all or a portion of their property zoned for the current use, and those properties had been made nonconforming when the corridors were zoned. He stated they were now giving those property owners the opportunity of bringing their use into compliance by assigning appropriate zoning, and as far as they could tell the County and the landowners were in agreement with that.

Commissioner Kost stated the common denominator for her was that at present they were in agreement with what the owners wanted to do. The County Attorney stated that if they said they were going to consider all the rezonings from one point to another, then that would one way to handle it at the public hearing

Chairman Lucier stated that would be one way of categorizing it and did not disagree with it, but they would not take 29 through 50 because they were all mixed up on different roads. The County Attorney stated he was referring to how to advertise the public hearing and how to conduct it. Chairman Lucier stated that would mean six different hearings for the six different roads. He asked Mr. Sullivan for his opinion.

Mr. Sullivan stated that since they would have to send individual notices to all the adjoining property owners, staff was thinking they had to at least have specific language for the property being considered for rezoning. The County Attorney stated the legal notice for the newspaper was different, noting he was thinking in terms of the legal notices and how the public hearing would be conducted. Mr. Sullivan stated they would have the descriptions for all the properties ready when the notice was placed in the newspaper, and those could be put in any format. The County Attorney stated he was trying to find a way to save money by describing the properties in a concise but informative way rather than by individual notices.

Commissioner Kost stated she did not believe that would be possible.

Chairman Lucier agreed they would likely have to do individual notices. The County Attorney agreed they would need to mail out individual notices, but what he was trying to avoid was publishing them all in the newspaper at great cost.

Commissioner Kost stated clearly they would be mailing individual notices to adjoining property owners. Mr. Sullivan stated they would also be posting the properties with yellow signs.

Chairman Lucier suggested that the County Attorney and staff make a recommendation to the Board as to how to proceed. The County Attorney stated they would work it out as efficiently as possible and report back to the Board.

Chairman Lucier stated at present they were talking about a stand alone public hearing, and hopefully they would get that done. Mr. Sullivan stated staff had talked about timelines but had not had the time to revisit it.

Commissioner Kost stated then that staff would be providing a timeline at some point soon. Mr. Sullivan responded yes, noting they were looking at something between March 16 and April 20, but there were some technical issues that needed to be addressed regarding the notices as well as the number of notices required.

## **BREAK**

The Chairman called for a short break.

## **CLARIFICATION OF PLACING ITEMS ON THE WORK SESSION AGENDAS**

Chairman Lucier stated that a need to clarify how items get on the agenda. The process used in the past was that prior to the agenda setting meeting which was on the Monday prior to the next commissioners' meeting; and, if they could get those work session items by the Friday evening before the Monday work session or agenda setting meeting then he believed things would run more smoothly. He stated that the other commissioners should submit by Friday before the Agenda Review Meeting on Monday, to the Clerk to the Board, the County Manager, and Commissioner Kost and himself, any agenda item for consideration. Chairman Lucier stated

he understood that from time to time things would come up that would need to be added, but he wanted to avoid adding things at the last minute, making it hard to put together an agenda that could be reviewed in a timely manner and finalized so that it could be provided to the public.

Chairman Lucier stated it was important to get the agenda out to the public in a timely manner, and he would really like to have it ready sooner than they now were able to provide it.

Loyse Hurley, a citizen, stated that the more links on the Web site the better; for example for this work session a link to what was happening on 87 would have been helpful to the public.

Commissioner Kost stated that it was her preference that they not vote on anything that was not on the agenda unless it was deemed an emergency. She agreed that emergencies would come up from time to time, but they should be able to anticipate most issues.

Commissioner Vanderbeck stated he supported that.

Chairman Lucier stated it was not only to be efficient, but to make sure the public was aware of what the Commissioners would be discussing.

Commissioner Vanderbeck stated he believed the Clerk to the Board would appreciate that, because many times the agenda underwent many revisions making it difficult to track the various drafts as well as to get it posted to the Web site in a timely manner. He stated he believed it would be more efficient and would allow the Clerk to use her time for other things.

The Clerk to the Board stated that if an item did not come in by the end of business on Friday that it would not be on the agenda, because the Deputy Clerk, was responsible for putting the agenda and links on the Web site and she left at 4:45 PM, and if she was still working on the agenda then she had no way to get it posted.

Chairman Lucier stated he would really like to get the agenda out by the close of business on Thursday, and believed they needed to work through a process to make that happen. He stated to add agenda items was the job of the Chair and Vice Chair, and should not be as easy as calling the Clerk to the Board and saying "put it on," rather it should have their approval. The County Manager stated for staff the agenda was set at the time of agenda review, which made it much simpler for them. Chairman Lucier stated then if other items needed to be considered for inclusion, then the Chair and Vice Chair would consider them.

Mr. Starkweather, citizen, stated the process used to be that if a citizen or citizens group wanted something on the agenda they had to contact a Commissioner by a certain time, and asked would that still be the procedure.

Chairman Lucier stated that something would have to be in their hands in a timely manner; that the agenda setting meeting was held on the Monday morning prior to the next Monday's work session; and, that would mean the information would need to be provided to a Commissioner 8 or 9 days ahead of time in order to be considered at the agenda setting meeting. Mr. Starkweather stated at times he was asked how to get things on the agenda, and it would be helpful to have that information posted somewhere so that citizens would know the procedure.

Commissioner Vanderbeck stated it was important to understand that just because you contacted a Commissioner did not mean you would get on the agenda, because there were a limited number of items that could be covered in a given meeting and they did not want to give the impression that all someone had to do was contact a Commissioner. Mr. Starkweather stated he understood that, but believed the Commissioners would want everyone to have equal knowledge of the process.

Commissioner Kost stated the only caveat to that was that the public can speak out during the public input session which would sometimes generate an agenda item because some issue had to be explored. She stated they did not want to confuse the fact that you could come and speak out at any time versus getting an item on the agenda.

Chairman Lucier stated he did not want to be too prescriptive, but did want people to know that if they wanted something on the agenda they needed to contact a Commissioner at the earliest possible time. Mr. Starkweather stated the other issue about providing materials should

also carry a deadline, so that people would know that if you did not get your materials in on time the issue had no possibility of being put on the agenda.

Chairman Lucier stated the discussion had now gone beyond what the purpose of today's discussion was meant to be; that they would actually have a more lengthy discussion regarding this and other agenda issues at a later time that would be a broader discussion; that today's discussion was meant as a more internal discussion for the Commissioners' benefit as to how to put items on an agenda; and, that when the issue was brought back up there would be the opportunity for public input.

### **LEGISLATIVE GOALS**

Chairman Lucier stated that the meeting was coming up on January 15 and they had received via mail information on the County line issues.

Commissioner Cross stated they had received an additional packet in the mail which contained the goals and the policy statement.

Chairman Lucier stated that he was unable to receive any correspondence via email from the Association of County Commissioners, and asked Commissioner Cross as the Board's liaison to provide them with that information. He stated emails from that Association and well as a few others froze up his computer for no reason that could be detected.

Chairman Lucier stated as he looked through the information Commissioner Cross had answered his question regarding the annexation issue, but that did not mean it could not be raised again.

Commissioner Cross agreed, and stated he believed they should raise it again.

Chairman Lucier stated apparently the Association of County Commissioners did not endorse the Board's request that one of the Legislative goals be that municipalities could not annex across county lines without the approval of the affected county.

Commissioner Cross stated the number one thing that had happened was that many counties were complaining about involuntary annexations, and Chatham was the only county complaining about voluntary annexations over county lines. He stated Speaker Hackney had indicated they should attempt to get a letter of agreement from Apex and Cary that they would not annex into Chatham County, adding that Apex and Cary had such an agreement between them.

Commissioner Kost stated she knew that Union County and Mecklenburg County had the same issue, but she supposed they had not complained.

Chairman Lucier stated that the issue should be raised again at the Association of County Commissioners meeting, noting it was not a foreign concept nor was it a difficult concept. He stated that did not mean they should not work to get a local agreement with Cary and Apex or anyone else.

Commissioner Cross stated that they would need to submit the request in writing by 1:00 PM on January 15, the opening day, and then the Steering Committee would look at it at its meeting at 4:30 PM.

Chairman Lucier stated then they needed to prepare that request.

Commissioner Kost stated they needed to stress the argument that counties typically had to give municipalities ETJ extensions. The County Attorney stated yes, over a certain distance. Commissioner Kost stated if municipalities wanted to extend into the ETJ, they would have to go to the county and make the request, and this issue was somewhat the same. She stated that ETJ's could not extend into a neighboring county, but could only extend within its own county. Commissioner Kost stated she believed that was a strong argument which should be brought to the attention of the Steering Committee.

Chairman Lucier asked that Commissioner Kost work with the County Manager to draft something for that meeting, noting that he and Commissioner Vanderbeck would be attending the meeting.

Commissioner Cross stated that he was frankly surprised that the Association did not agree to take up the issue.

Chairman Lucier stated they would try again and see how it went.

Commissioner Cross he did not have a vote at that meeting, but he would speak on it. He noted that he did have a vote on the final goals.

Chairman Lucier stated he believed the Board was unanimous in its support of that issue. He stated regarding the environmental issues, there was one goal that was in direct conflict with some of the things the Board had done and resolutions they had passed. He stated that one was the watershed rules, that they had sent several resolutions to the State regarding the Jordan Lake nutrient rules and that particular goal flew in the face of the County's resolution. Chairman Lucier stated he could not support that goal.

By consensus, the Board agreed they could not support that goal.

Chairman Lucier stated that the fact that Chatham County could not support that goal needed to be expressed at the meeting, and asked if Commissioner Cross had any insight as to where that goal had originated that might be helpful.

Commissioner Cross stated it had likely come from anyone upstream from Jordan Lake.

Chairman Lucier stated if he had any information to the contrary, please share it. He stated he did not mind drafting a statement regarding what the County's role was in protecting that lake which was almost entirely within its borders and why they thought that eliminating nitrogen and phosphorus pollution of the lake was a good thing because it was a source of drinking water as well as recreation activities. Chairman Lucier stated he believed that goal had perhaps come from Burlington, Alamance County, Durham, and even Cary.

Commissioner Vanderbeck stated the yard waste facilities was similar, in that you could likely get their Ag Agent Al Cooke, to tell you that if you put a pile of yard waste next to a pond that as it degraded it released its nutrients into that body of water. He stated that he could understand if it was an attempt to control costs but not at the risk of the environment, and not much information was provided so it did not give him much to consider for voting on. Commissioner Vanderbeck stated the language as written was too loose, and did not really know what they were trying to get across nor where it was coming from, making it more difficult to support.

The County Manager added that goal could be horrendous, and for the County's purposes it depended on how yard waste was defined. He stated it could be an occasion such as what they had experienced with Hurricane Fran, in that they were composting because there was no place to put the yard waste. The County Manager stated if that was legislated, they would have great difficulty in figuring out how to capture that leaching and treating it for wastewater.

Commissioner Vanderbeck agreed that it needed to be clarified.

Chairman Lucier stated that on the third column on page 2 where it had the record sharing communicable diseases, it was hard to determine what the intent was; that the language could be interpreted to mean actually dealing with undocumented diseases; and, that it was something that could have unintended consequences and was a concern for him. Mr. Starkweather stated that language referred to someone making a request for communicable disease information and that they could not be sued. Chairman Lucier read the language, noting it referred to someone responding to a request for communicable disease information and that that respondent would have immunity from prosecution. He stated it was difficult to determine what was meant by the way the statements were written. The County Manager stated he believed that referred to the HIPAA laws.

Commissioner Cross stated he did not know how you could prosecute someone who was required to provide such information in the first place.

Chairman Lucier stated he believed the word "required" could be misrepresented when used in that context.

Commissioner Thompson agreed it could be misrepresented.

Commissioner Kost stated she would have a problem with that goal as well, agreeing there could be unintended consequences.

Commissioner Cross stated that at the meeting on the 15<sup>th</sup> they would take one page at a time and go through each goal, asking the attendees if there were any questions or discussion of any of the items; that if there were questions then that item or items would be pulled and the other items would be voted on en masse; and, that they would then come back and discuss that item or items. He stated that at that time the staff would provide a briefing of the information available for that item. Commissioner Cross stated they would deal with the administrative issues during the morning, and the other issues would be considered in the afternoon session. He reminded the Board that issues had to be received no later than 1 p.m. on the 15<sup>th</sup>.

Chairman Lucier stated the next goal was Workers' Compensation Reform, which would reduce disability findings and streams of payments. Mr. Starkweather stated basically the proposal was to cut back on compensation. Chairman Lucier stated the process laid out by Commissioner Cross was a good opportunity to ask for a better explanation of that goal and its wording.

Commissioner Cross stated he would like to have this Board put that request in writing as well to allow the issue to be pulled from the list and discussed.

Commissioner Vanderbeck stated the language used regarding the different types of foreclosures should be revised since it was stated using legal terms that were not familiar to many. The County Attorney provided a definition of some of the terms used, noting that the language was very descriptive.

Commissioner Kost stated she had raised the question with the Board via email regarding the distribution of lottery proceeds; that her concern was how the Average Daily Membership, or ADM, was calculated; that she had gone onto the Internet to try and determine the lottery distribution formula; that there were two calculations, the ADM and one that used an average over a certain amount of the property tax rate; and, if the State went to a straight ADM calculation she would ask the Board to oppose that formula because it would result in a loss of revenue for the County of about \$200,000 a year. Commissioner Kost stated if under Public Education the goal was to go to a straight ADM calculation that Chatham County should oppose that.

Commissioner Vanderbeck stated that was another example of the Board having to vote in a way that was specific for Chatham County.

Commissioner Kost agreed, noting that if the property tax component was eliminated, that was not in the County's best interest.

Chairman Lucier asked if each of the goals would be voted on separately. Commissioner Cross replied only the ones pulled from the list for discussion would be voted on separately.

**Designation of Voting Delegate:**

Commissioner Cross stated that he had been designated as the voting delegate, but because Chairman Lucier would be attending and would be posing those questions, he wondered if Chairman Lucier would prefer to be the voting delegate.

Chairman Lucier stated it made no difference to him.



Commissioner Cross stated making that change would put another representative from Chatham County at the table; that voting delegates sat up front with place cards; and, that he would already be seated on stage.

Commissioner Kost stated she had posed the question because she thought it might be awkward for Commissioner Cross to raise those issues since he would already be seated at the table.

Commissioner Cross agreed it would be awkward since he had already sat through the Goals Committee meetings and the Board of Directors meetings approving all of those goals.

Commissioner Vanderbeck moved, seconded by Commissioner Cross, to change the voting delegate at the North Carolina Association of County Commissioners Legislative Goals Conference from Commissioner Cross to Chairman Lucier. The motion carried five (5) to zero (0).

Chairman Lucier stated that Commissioner Cross's observation was a good one, and having another Chatham County representative at the table was a good move.

### **CLOSED SESSION**

Commissioner Vanderbeck moved, seconded by Commissioner Thompson, to go out of Regular Session and convene in Closed Session for the purpose of discussing matters within the Attorney/Client privilege. The motion carried five (5) to zero (0).

### **WORK SESSION**

Commissioner Vanderbeck moved, seconded by Commissioner Cross, to adjourn the Closed Session and reconvene in the Work Session. The motion carried five (5) to zero (0).

Chairman Lucier stated they were now in open session, and asked the Board for a motion regarding the Positron contract.

Commissioner Kost moved, seconded by Commissioner Thompson, to terminate the Positron Contract for Emergency Management. The motion carried five (5) to zero (0).

Commissioner Kost moved, seconded by Commissioner Vanderbeck, to award the contract totaling \$268,928.00 to Southern Software subject to compliance with the public bidding laws. The motion carried five (5) to zero (0).

### **ADJOURNMENT**

Commissioner Vanderbeck moved, seconded by Commissioner Kost, to adjourn the Work Session. The motion carried five (5) to zero (0), and the meeting was adjourned at 4:56 PM.

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George Lucier, Chairman

ATTEST:

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