

**MINUTES**  
**CHATHAM COUNTY BOARD OF COMMISSIONERS**  
**REGULAR MEETING**  
**SEPTEMBER 21, 2009**

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The Board of Commissioners (“the Board”) of the County of Chatham, North Carolina, met in the District Courtroom, 12 East Street, located in Pittsboro, North Carolina, at 6:00 PM on September 21, 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; Assistant County Manager, Renee Paschal; Deputy Clerk to the Board, Elizabeth Plata; and Clerk to the Board, Sandra B. Sublett

**INVOCATION AND PLEDGE OF ALLEGIANCE**

Commissioner Thompson delivered the invocation after which Chairman Lucier invited everyone present to stand and recite the Pledge of Allegiance.

**CALL TO ORDER**

The meeting was called to order by the Chairman at 6:07 PM.

**AGENDA AND CONSENT AGENDA**

Commissioner Vanderbeck asked that Consent Agenda Items # 4, Recommendation of Departments for the First Evaluation Process and #6, Closed Session for Attorney-Client Privilege be moved to the Regular Agenda for discussion and that the Proclamation Honoring the Service of Margaret Bryant Pollard to Chatham County be moved from the Commissioner’s Reports to the first item after the Consent Agenda.

Commissioner Vanderbeck moved, seconded by Commissioner Thompson, to approve the Agenda and Consent Agenda with the noted requests as follows:

1. **Minutes:** Approval of Board Minutes for Regular Meetings held September 08, 2009 and August 17, 2009 and Work Session held September 08, 2009

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

2. **Tax Releases and Refunds:** Approval of tax releases and refunds, attached hereto and by reference made a part hereof.

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

3. **Charging-Off 1999 Tax Bills:** Approval of a request to charge off 1999 tax bills

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

4. **Amendment to the Impact Fee Reimbursement Policy Concerning Affordable Housing For Low Income Individuals:** Approval of Amendment to the Impact Fee Reimbursement Policy Concerning Affordable Housing For Low Income Individuals to designate the Sustainable Communities Development Director to receive reimbursement requests and adopt **Resolution #2009-57 Approving a Revision to the Impact Fee Reimbursement Policy Concerning Affordable Housing for Low Income Individuals**

The motion carried five (5) to zero (0). The amendment and the resolution are attached hereto and by reference made a part hereof.

5. **Chatham County 2009 Hispanic Heritage Month Proclamation:** Approval of **Chatham County 2009 Hispanic Heritage Month (September 15, 2009-October 15, 2009) Proclamation #2009-58**, attached hereto and by reference made a part hereof.

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

6. **Domestic Violence Awareness Month:** Approval of **Resolution #2009-59 Declaring October 2009, as Domestic Violence Awareness Month in Chatham County**, attached hereto and by reference made a part hereof.

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

7. **Resolution Declaring October as "Chatham Habitat for Humanity Month":** Approval of **Resolution #2009-60 to Declare the Month of October, 2009, as "Chatham Habitat for Humanity Month"**, attached hereto and by reference made a part hereof.

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

8. **NC Public Employee Deferred Compensation:** Approval of participation by Chatham County in the North Carolina Public Employee Deferred Compensation Plan and adopt **Resolution #2009-61 Adopting the North Carolina Public Employee Deferred Compensation Plan Established by the State of North Carolina**, attached hereto and by reference made a part hereof.

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

9. **Unifirst Uniform Agreements:** Approval of a request to approve the Unifirst Uniform Agreements, authorize the County Manager to sign the agreements, and exemption from the County bidding process, attached hereto and by reference made a part hereof.

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

10. **Naming of Private Road:** Approval of a request for the naming of a private road in Chatham County as follows:                   A.     Hackney Lane

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

**END OF CONSENT AGENDA**

**PUBLIC INPUT SESSION**

**Beth Kriker**, 224 Buteo Ridge, Pittsboro, NC, expressed appreciation for everyone who showed support to the strikers at Moncure Plywood in their hour of need. She especially thanked the Board of Commissioners for their compassion, understanding, and willingness to support and help in every way they could. She stated that it opened the door to granting immediate relief in terms of meeting housing needs, food, and help for the children; that Moncure workers speak often of kindnesses shown when they needed it most; that Chatham County is a unique example of a quintessential melting pot described in an old song, "*Ballad of Americans*"; that we are farmers and students; that our vision of Chatham County is one that will someday soon be a place where factories will be equipped with solar energy and wind, heat and air, modern technology to filter the air from the dust particles which float into the lungs of workers...where farm workers will work in a green environment protected from the cancer-causing pesticides and insecticides they now endure...where new labor laws will mandate the rational working hours and wages; that we should not allow Chatham County to be used as a dumping station for a sweatshop labor in a plantation-style motto with oversees posed as supervisors; that we need to awaken perspective in present employers to the reality that this is the new South and we are in an era of change; that any

effort to return to a motto resembling slavery will be resisted by doing all we can to not allow stimulus money or military contracts to be awarded to corporations that do not practice fair labor standards; and that Chatham County led by their Commissioners is working hard to become the model green stated of this new era of change. She concluded by paraphrasing deceased Senator Ted Kennedy, "If we care, we will fight on for what we believe to be just. The struggle will continue so the dream of a better life for all people in need and the children they cherish, will live on."

### **BOARD OF COMMISSIONERS' MATTERS**

#### **Proclamation Honoring the Service of Margaret Bryant Pollard to Chatham County:**

Chairman Lucier read the resolution in its entirety. He added that beyond her accomplishments, which clearly stands by itself, former Commissioner Pollard also inspired many others to public service, and that he is certainly one of those.

Commissioner Thompson stated that he had known Margaret Pollard for over thirty years; that she served to inspire a lot of folks into public service, of which he was one; that he was first involved in politics in 1976-77, and she was one of the first folks to step forward to serve as his campaign chair and advisor; that over the years, she was a mentor to him and countless other public servants in Chatham County; that she was a very intelligent lady, a lady that is full of grace, and a lady who was not divisive, but one who worked to bring people together; that she served on the Board of Commissioners for ten years and countless other organizations, not just in Chatham County, but throughout the State of North Carolina, and affected literally thousands of lives. He stated that Ms. Pollard was a selfless person who gave a life of public service to people in Chatham County and this region; that she will be sorely missed. He asked everyone, as they pray, to remember her family in this hour of grieving stating again that she will be sorely missed in Chatham County and will never be replaced. He stated that he was thankful for the time that he knew her and that he speaks for all in saying that we are thankful for the time that we knew her and the impact that she made in all of our lives.

Commissioner Thompson moved, seconded by Commissioner Vanderbeck, to adopt **Proclamation #2009-62 Honoring the Service of Margaret Bryant Pollard to Chatham County**, attached hereto and by reference made a part hereof. The motion carried five (5) to zero (0).

**Impact Fees:** Presentation by TischlerBise and public input session to receive public comments on Impact Fee Study

Renee Paschal, Assistant County Manager, explained that the impact fee is one of the County's few alternatives to the property tax for meeting revenue needs to increase school capacity; that the fee is collected from builders to fund the impact of development on school facility needs; that the County first received authority from the General Assembly to collect the fee in 1987, but did not begin collecting it until 1999; that in 1996, a study was conducted to determine the impact of new houses on schools; that the County had not updated the study until this year, but the Commissioners asked for the update due to major increases in school construction costs, which have nearly doubled since 1996. She introduced Carter Bise who presented a Powerpoint entitled, "Educational Facilities Impact Fees, Chatham County, North Carolina.

The Chairman opened the floor for public comments.

**Loyse Hurley**, 16 Matchwood, Pittsboro, NC, President of Chatham Citizens for Effective Communities (CCEC), presented her comments to the Board and provided them in their entirety for the record as follows:

"A good education for our children is essential to the future of any area. This includes planning ahead for adequate facilities with small classroom sizes and appropriate recreational amenities. This is a costly endeavor and one not easily predictable. CCEC has reviewed the latest TischlerBise report.

We are addressing the following:

1. The question of impact fees versus an increase in property taxes:

Property taxes are already the primary source of funding for our schools. Given the current economic situation, an increase in property taxes would pose a heavy burden on our citizens. The original Tischler study was conducted in 1996 and those numbers no longer hold true. Since we do not have other options at our disposal, the impact fee appears to be the best solution to augment the current property taxes in order to pay for these facilities. We note that the Homebuilders Association is advocating for a broader fee base. Had they not advocated so strongly against the 1 % Land Transfer Tax, both at the state level and during the local referendum, they would now have that broader base. Now, we are left with only the option of some increase to the impact fee.

2. Point of collection for impact fees:

Our system of collection of impact fees at the time of the building permit issuance appears to be working well. Collection of these fees needs to be at the earliest possible time because it takes years to build a new school and have it available for the new children.

3. Flat impact fee versus a proportional fee based on the number of bedrooms:

The flat fee appears to be inequitable, since all houses regardless of size, have the same \$3500 fee. Therefore, basing the impact fee on the number of bedrooms which has a correlation to the number of children is more equitable. Heightened enforcement of our current collection procedure may be necessary to avoid the situations where additional bedrooms are added, after the fee is collected.”

**Holland Gaines**, 200 Kelly Ridge Drive, Cary, NC, presented his comments to the Board and provided them in their entirety for the record as follows:

“REASONABLE INTENT:

Was it ever the intent of the impact fee to place the entire burden of population growth on the buyers of new homes? Logic would suggest that the intent was to require that the cost would be proportionate to the number of students added by the purchase of that new home. Since 1999 (10 years) the county has collected nearly 16 million dollars from impact fees at current levels or less. I think they were introduced at \$1,500 then raised to \$2,900 and more recently \$3,500 by the present board. In other words, today’s fee level would have produced 25-30 million dollars.

This clearly suggests the current level should be considered more than adequate to cover the introductory cost of new home students. The property tax for each home in the county should then cover the cost of continued education. In Chatham County, less than 10% of student population growth results from the sale of new homes.

ECONOMIC REALITY:

The points made under reasonable intent applied during a time of economic expansion. That expansion has now faltered. To reflect this, I have pulled sales data from the MLS for 2006 to the present.

Residential Closings – New and Resale

2006 – 878 homes	73 per month
2007 – 778 homes	65 per month
2008 – 587 homes	49 per month
2009 to date – 342 homes	43 per month

With monthly overall new and existing home sales down 37% and monthly lot sales down 80% (which suggests many fewer new homes for sale in the future), it should be clear that budgetary plans to procure significant revenues from new home sales are misguided.

The fact of the matter is that housing, here and across the nation is in serious trouble. Rather than add cost to a new home, commissioners should be looking for ways to help builders cut the cost of new homes.

Most citizens and government leaders acknowledge that property taxes represent the goose that lays the golden egg. Cary and other communities have looked to higher impact fees in what was a robust economy only to see new construction dry up. That means a freeze on the expansion of the tax base.

#### HUMAN IMPACT:

Unfortunately the ripple effects of the impact fee are serious and may be ugly. The true impact of this fee will be the negative impact felt by the community. Potential loss of tax revenue is a real possibility. Subdivisions now developed may sit vacant or sores yet may go out of business. Present employees are likely to lose their jobs-higher social services cost and programs such as our scholarship and intern program will have to be curtailed or even brought to an end. The employment impact extends beyond the subdivision to building supplier, subcontractors, realtors, insurance, accountants, attorneys and yes the sales tax.

Lastly, to even think of basing fees on the number of bedrooms is anti-social at the least. Statistics reveal that low income families have more children per household than middle or higher incomes. In this new economic reality, the great majority of upper priced homes will have fewer bedrooms. In closing, we do not argue that a reasonable impact fee is inappropriate – but it should reflect only the pro-rata introductory cost of that house to the county. The present fee of \$3,500 is, as your previous study concluded on the high end. No reasonable conclusion could be suggested in this economic environment that would increase the current level.”

**Ken Boggs**, 371 River Road, Pittsboro, NC, thanked the Board of Commissioners for their leadership and work to date in funding the schools and for using the impact fee appropriately. He continued by stating that he is a fiscal conservative and unbridled supporter of the school system.

In answer to question #1, he suggested that the Board use the impact fee per number of bedrooms.

In answer to question #2, how to charge for it, he recommended using a distributive charge based on the percentage that is standard with the banks.

He stated that there will be some that do not understand the values of the impact fees and who many rant and rave, but that they are completely wrong. He stated that the County needs the Board’s continued leadership and asked them to please provide it.

**Tim Morgan**, 7706 Six Forks Road, Raleigh, NC, asked that the Board consider reducing the age limit on age restricted communities that are exempt from having to pay the impact fee to 55 years and older with a prohibition on children being allowed to live in the community.

**Paul Konove**, 1459 Redbud Rd. Pittsboro, NC, Carolina County Builders, presented his comments to the Board and provided them in their entirety for the record as follows:

- 1) “At previous times I have supported moderate/reasonable impact fees.

I would support a moderate (very conservative or small) increase at this time – not the large amounts suggested.

As past presentations from county staff have shown, impact fees do not cover all the true costs of development so it is also time to move (although the present economic situation should be taken into account) on increasing the tax rate for all in the county to cover some or most of these costs.

It is also time to revisit the transfer tax – and to educate all on the need. This would include all members of the local Home Builders Association chapter and encourage them to speak up – since the state association does not support this measure.

- 2) I do support impact fees being collected at the conclusion of the project (at CO). At this time with very little building happening, a delay of 4-8 months in receiving

funds would occur, but then the same amount would come in to county accounts following this delay.

At this time the only one who might benefit from having this payment at the beginning of the project are the banks. The people who lose are the builders and the home owners who lose the ability to gain interest or use this money in other ways.

3) I am not sure of the bedroom vs. house type for calculating impact fees. There is need for more information and analysis. In many instances homes are built with home offices, studies, etc. If these are considered bedrooms when they are not – this could lead to a substantial and faulty increase in impact fees. Although it is true the reverse could happen and there could be more dens designed to hide an extra bedroom, there needs to be a clear method of determining what a bedroom really is so that it is not left up to someone's opinion or interpretation.”

**Bill Spang**, Mann's Crossing, Pittsboro, NC, presented his comments to the Board and provided them in their entirety for the record as follows:

“I am the owner/developer of Mann's Crossing Subdivision on Mann's Chapel Road. I tried to make my case last night that the Impact Fees, by law, are not sufficiently progressive to be fair, nor are they an adequate planning device for the County.

The fee of \$3500 now charged results in an annual \$250 increased mortgage payment for the buyer over the entire 30 year mortgage. Now that may not be significant on a \$500,000 home, but it certainly is if applied to more affordable housing. Therefore I recommend that increased taxes be used to fund schools.

The Impact Fee is also a poor planning device. As the County has now experienced, Impact Fees collected in 2008 are only half what they were in 2006, and fees in 2009 will be even less. When planning in 2006, that makes it difficult for the County to plan on the fees paying debt service for the years after the money is committed.

As to the time to collect the fee, the County should realize that the fee is a cost to the builder he needs to pass on. By collecting it a permit, the builder must fund those dollars and pay the costs of acquiring those funds for the entire 6-12 months of construction. The result is a greater impact on buyer's cost of the house and a financing burden on the builder. Collecting at CO is much more fair.

Building the fee on the basis of bedrooms results in too gross a change from 2 to 3 bedroom units and from 3 to 4 bedroom homes. The result, I think, is every owner and builder will try all kinds of alternatives to avoid the up-charge resulting in a County full of "dens" and increased administrative costs to administer.

Please keep the impact fees as they are and change the collection date to the issuance of the Certificate of Occupancy. Thank you.”

**Mark Todd**, 26 Mary Charles Lane, Chapel Hill, NC, stated that he is a general contractor and small businessman. He presented his comments to the Board and provided them in their entirety for the record as follows:

“I am here primarily as a small businessman, under no illusion that the impact fees will be rescinded. I ask the commissioners to help the small local contractors not help run them out of business.

I spoke in favor of the land transfer tax in lieu of impact fees but did not trust government enough to let them have authority for both fees. I spoke thus because I think the broader the base the fairer it is. Land transfer tax is broader than impact fees, however, property taxes are broader still so are even fairer.

I believe public schools benefit the entire population and the entire population should pay for them. New construction is not the only structures that generate students. Are you going to assess an impact fee to every house built before we had impact fees, or assess impact fees to each house every 30 years?

I believe impact fees are the favored remedy now because they are easier to pass because they do not affect current homeowners. The commissioners should do what is right not what will get them re-elected.

On the second point, if we are going to have an impact fee it should vary according to the number of bedrooms. It is less regressive that way.

Point number three, if we are going to have an impact fee it should definitely be collected at the C.O. It is the absolute least the county can do to help local businesses. Government already subsidizes tract builders enough. You do not need to give them any more added advantages. Orange County, Chapel Hill, and Carrboro collect at the C.O. If I invest money (the fee) I need a return on that investment. The fee does not just pass through it gets marked-up, also the real estate agent and attorney also get their percentages. I have \$30k working capital if it goes to fees upfront I have no money to build the house. Bank draws are base on percentage of completion. There is no line item for fees so they come out of pocket. Also most builders have more than one project going at a time. Fees collected upfront can eat up all a small builder's capital.

Impact fees really hurt affordable housing. I do not know about all banks but mine will not appraise soft costs (lot price, permit fees, impact fees, tap fees, etc) at more than 22% of sales price. So a builder basically has to build a house that sells for 5 times soft costs. The higher these costs the more expensive a house has to be built.

Thank you for your time.”

**Eddie Suits**, 2290 Stockyard Road, Staley, NC, stated that he is a simple man with a simple mind; that he felt like the public who used the educational system should pay for it instead of taxing people moving into the County by charging them an impact fee.

**Larry Ballas**, 139 Indian Creek Lane, Apex, NC, asked the Board to be fair and raise taxes and fees. He stated that we need to look at the operation of the schools to make sure they are operating efficiently; that for recreation, the Board of Commissioners needs to look at whether private schools might be an option for providing education to children in the County; and that they might want to consider one sports complex to serve all the schools instead of duplicating them at each campus. He stated that he doesn't know the answer; that it's a very difficult thing to come up with. He suggested that the question be given careful consideration. “Looking for alternatives is a challenge,” he said. “We just have to be out-of-the-box thinkers.”

**Ed Spense**, 68 Pinewood Drive, Siler City, NC, thanked the Board of Commissioners for letting him speak. He asked the difference between a tax and a fee. He stated that he did not understand the difference but would accept it. He stated that the impact fee is good if it is the Commissioner's intention to curtail home construction; that perhaps it has gone unnoticed that the construction industry is at a low due to the current economy; that construction is one of the cleanest industries in the country and compared it to a bed and breakfast. He asked about first-time builders, ages 20-30 years old. He stated that some of these probably do not have children when they marry, cannot or do not chose to have children and yet they have to pay the impact fee; that he is 71 years old and he and his wife will have no more biological children; that they have many adopted ones, yet, if they build another house, they will have to pay the impact fee; that \$3,500 to \$14,000 is a large increase; that he suggested no increase in the impact fee and stated that he would suggest lowering or abolishing this tax/fee.

**Randy King**, 1225 Crescent Green, Suite 250, Cary, NC, presented his comments to the Board and provided them in their entirety for the record as follows:

“I work with Del Webb, the builders of Carolina Preserve, our Active Adult, Age Restricted community that straddles the Chatham / Wake County Line.

I am here to request that as part of the School Impact fee study, you consider the option of exempting or limiting the school impact fees that are charged for Age Restricted communities.

We can all agree that we need to maintain great schools. And we all know that growth in the school-aged population will necessitate the construction of additional school capacity.

As you consider the options for generating revenue to pay for expanding the school system, I ask that you consider the following points relative to new homes in Age-Restricted communities:

- Age-Restricted communities predominantly consist of citizens over the age of 55
- Age-Restricted communities do not allow school age children, and therefore do not increase the school population
- Approximately 62% of Chatham County's General Fund Budget is generated by property taxes. Of the current budget, approximately 45% will go to operating and maintaining the current education system.
- Residents in Age-Restricted communities pay the same property tax rate as every other homeowner. The addition of Age-Restricted homes provides an increased tax base and revenue stream for operating and maintaining the school system, without placing any students in the school or generating the need for expanding the school system,
- Residents of Age-Restricted communities generally do not place the same burden on the surrounding infrastructure, especially roads, as traditional subdivisions, due to their more variable schedule and less traffic during peak (rush) hours,

During the Consultant's presentation, he touched on several factors that should be considered when determining school impact fees, including equity and applying the fee to those users of the system that are causing the impact. He also spoke of the "rational nexus" test and the concept of proportionality in determining fees.

Due to these considerations, other jurisdictions have exempted or limited the school fees charged to Age-Restricted communities. In a similar fashion, some resort communities have considered a special exemption for non-year round residents that do not enroll their children in the local school system

The special nature of Age Restricted communities and their relationship to school funding should mandate that the School Impact Fee study evaluate exempting new homes that are constructed in Age-Restricted communities.

If after studying this issue, you do move forward with an impact fee, please consider the following points:

- Many of these senior citizens are on a fixed income. The added fee often represents a large proportion of their income.
- An incremental fee, based on the number of bedrooms may not be appropriate, as there are typically not more than two residents in the household. If they purchase a 2, 3 or 4 -bedroom home, the extra bedrooms are typically used as a guest room, craft room or home office, rather than as a bedroom for a full-time resident. A flat fee similar to a one or two bedroom home may be more appropriate.
- While we all agree that great education is a benefit to everyone, these homeowners will continue to contribute a large percentage of their property tax dollars to operate and maintain the current (and future) education system.

Thank you for the opportunity to address the Board tonight. I hope that you will agree that residents of Age-Restricted communities pay for education through their property taxes and that by eliminating or limiting this fee on Age-Restricted communities, you may attract more of the citizens that support rather than burden the school system."



**Heather Johnson**, 449 Foster Lane, Pittsboro, NC, presented her comments to the Board and provided them in their entirety for the record as follows:

“My name is Heather Johnson, mother of four small children and I have a bookkeeping business here in Chatham. I find this session interesting. Our Commissioners are asking for our input on choices for how the Impact Fees will be assessed as though there are no other alternatives for revenue. In 2007 the citizens of Chatham County spoke loud and clear when we voted NOT to impose a Land Transfer Tax. Were you listening?”

Commissioner Lucier, in 2006 you and I debated about the Countywide Moratorium Ordinance and you claimed that we had 30,000 rooftops coming. Where are they? You said that because of the expected rise in population we needed to build schools. You have had since 2006 to make funding schools a priority. In 2007 this Board brought the Land Transfer Tax to the voters of Chatham. This Board sold the Land Transfer Tax as a “teeny tiny tax” that would net a windfall of revenue for schools. Well, as we have seen the housing market crumble, it is a GOOD THING that we are not dependent on a fluctuation real estate market to fund schools. The voters told you to find another way when we defeated the Land Transfer Tax.

Between 2002 and 2007 property tax revenue has increased 19% (adjusted for population growth)! We do not have a revenue problem! We have a spending problem! I will say that I was proud to watch this Board work to save teaching jobs and be creative to rescue the School Budget. Give credit where credit is due. But let’s not stop there!

When this Board imposes a moratorium ordinance and proposes a radical Major Corridor Ordinance, we do not encourage economic development here. How can my middle class family stay here? There are no jobs, businesses don’t want to come. By considering Impact Fees, cobbled together with reimbursements and incentives, I fail to see the creativity in this Budget. Basing our school funding on a fluctuating market is NOT making education a priority.

I have a hard time trusting this Board with my tax dollars when we waste money on an experimental bus line. I am sure that you think you did a good thing by paring down this experiment that was delivered to you as an 18 month program to 6 months, but it’s still a waste of money!

I feel that Impact Fees would be a way to circumvent the voters who plainly told you what we want. Please hear us and do not consider Impact Fees. Thank you.”

**Ken Smith**, 18395 Highway 902, Bear Creek, NC, stated that on the surface, \$3,500 impact fee does not seem to be a lot; that for his daughter and son-in-law, it was going to cost about \$10,000 to begin construction on a new house; that this is not the exact way to go, although he doesn’t know what direction to go. He asked the Board if there would be a way the developers that are bringing the developments into the County could foot some of the bill to build new schools. He stated that the citizens have a lot of fees on them right now and the impact fee doesn’t seem to be a fair way of doing it with a million dollar project and a one hundred thousand dollar project having the same impact fee.

**David Green**, 1205 Rufus Brewer Road, Siler City, NC, stated that he was Ken Smith’s son-in-law and asked where he was going to get the money to pay his impact taxes.

**Jim Vanderbeck**, 111 Greg Trimmel Circle, Pittsboro, NC, thanked the Board for the opportunity to speak on this subject. He stated that adding fees to new home construction creates some consequences that we are going to start to bump against if the County continues in the direction it has been going; that, for example, infrastructure costs are starting to influence the type of house that is being built; that as these costs escalate, the type of home built large and expensive tends to get more so; that affordable mobile homes and other modular homes begin to be priced out of the market as cost of land, impact fees, permit fees, etc. increase; that although mobile homes may not be his particular architectural design of choice, they do make it affordable for people to get started or to retire in or to live their whole life in and that is a big consideration; that he doesn’t have children in the school system, but believes it is his responsibility as a County resident to help pay for their education; that if the County needs more schools and other County services, they property

taxes should be in line to support that endeavor; that he didn't think he would ever say those words; that he has always stood by what he said; that keeping property taxes artificially low or putting the burden of growth costs on one segment of the population creates more problems than it fixes; that it is arguably easier to tax a small segment of the population, but that does not make it right; that it's time to spread the cost of operating this County across the entire County through property taxes and that comes without the extra enforcement; that looking to see if a den is a den or a bedroom is an enforcement issue; that the County already has people and the infrastructure in place to collect property taxes; that impact fees and transfer fees all target specific segments and are not broad enough, especially with the growing costs; and that he thinks that that's the points that we wants the Board to think about.

**Paul (Bo) Root**, 7716 Spice Crossing, Chapel Hill, NC, presented his comments to the Board and provided them in their entirety for the record as follows:

“Good evening Mr. Chairman and county commissioners. Thank you listening to the comments of citizens and businesses of Chatham County. My name is Paul Root and I am the president of the Home Builders Association of Durham, Orange & Chatham Counties.

The Home Builders Association is philosophically opposed to impact fees. We believe that impact fees are simply an unfair and inefficient funding tool.

Public goods or benefits should be paid for by the general public. An indivisible benefit to the community, like education, should be funded as nearly as possible in a way that does not differentiate among classes of citizens. Selecting Chatham County residents who have chosen to invest in a new home to fund a larger share of any public service is not an equitable path.

Fees are revenue that should be assessed to users of a service (solid waste fees, water and sewer fees, overdue fines for library books). To establish a fee you have to assume differential use of that service and establish a way to measure use. Such measurements are not possible with public education. Each and every resident of Chatham County benefits from the county's school system, whether they have children in their household or not.

There are also negative impacts from making housing more expensive to provide. A recent study funded by this county claims there is a dramatic shortage of affordable housing. Increasing the cost to provide housing can only lead to the production of fewer affordable homes. Small, local builders that remain in Chatham County are being priced out of the home building industry. With permits and access fees costing in excess of \$10,000 to build a single new home, fewer and fewer local, small businesses will continue to build homes in Chatham County. The cash required for this up-front cost is simply not available for small builders.

In conclusion, I believe this unfair fee will lead to fewer local builders, fewer jobs in the county, reduced access to affordable housing and a prolonged impact on the damaged economy in Chatham County.”

**Rich George**, 97 Coachman Way, Sanford, NC, presented his comments to the Board and provided them in their entirety for the record as follows:

“BACKGROUND: Part mobile home park and part motorsports theme park, Wheels Estates Siler City is a new community offering livable, affordable housing in Chatham County. Renting for just \$495-595/month, our mobile homes are unlike any others in the area...from striking paper on the walls to hardwood laminate and Berber carpet on the floors! The initial Wheels Estates community in Cumberland County has been hugely successful, with full occupancy and a waiting list of new residents.

TAX TYPE: While Wheels Estates pays both impact fees on new homes it adds to the community AND property taxes on all homes it owns in the community, we strongly believe schools should be funded with property taxes, NOT impact fees, since:

1. Affordable housing will become unaffordable if much higher impact fees are imposed. In fact, rent would have to essentially double since the \$14,404 maximum three-

bedroom impact fee nearly equals the \$15,000 average cost of our three-bedroom home.

2. Development in Chatham County will develop elsewhere. Wheels Estates is funded entirely by private equity investors who will redirect their limited capital to areas without impact fees (i.e., Cumberland County) where it will have greater impact and generate a greater return.

3. The \$14,404 impact fee is an oppressive burden (i.e., 9 months' salary for our average resident) on the citizens least able to afford school services, but most in need of them. Ironically, Chatham County Schools' workers could no longer afford to live at Wheels Estates if the school impact fee were imposed.

Before increasing any taxes or fees, exorbitant school construction costs must be scrutinized: Wheels Estates can put a whole family in a home for one-third the cost that Chatham County can put one student in a high school (\$43,496).

**TAX STRUCTURE:** Reasonable impact fees should be based on bedroom count since this method most fairly and accurately assigns school costs given that state law prohibits linking impact fees to home price or income. In addition, two development zones should be considered in Chatham County since the eastern and western portions are so economically disparate.

**DUE DATE:** Any impact fee should be collected when a Certificate of Occupancy is granted since this will minimize the time Wheels Estates must float cash before we start receiving income from the home."

**Deb McManus**, 11 Pine Forest Drive, Siler City, NC, Chatham County School Board Member, presented her comments to the Board and provided them in their entirety for the record as follows:

"We've heard from a lot of smart people tonight, some of whom are very good with words; some have been people that I greatly respect. They have told us why they don't want property taxes increased or why they don't want to increase impact fees or why one should be increased rather than the other, but I haven't heard many ideas about how we can come up with the money we need to maintain or build schools. We've heard from a lot of people who represent builders, developers, or realtors, some of whom are also residents of Chatham County.

But we haven't really heard many suggestions for alternatives to raising property taxes or impact fees. Heather Johnson did suggest that the schools system apply for grant money and I want you to know that we have been applying for grants and this year we have been the fortunate recipients of two significant grants. We will continue to apply for grants but that isn't going to be enough money to build schools. This year, thanks to cooperation with our Commissioners, we are also going to receive some federal stimulus money for roof repairs. Someone else suggested that the school system look at cutting costs. We have cut costs significantly this year. We have cut transportation cost by adjusting bus routes and cutting the number of buses. We have cut positions, both in the Central office and some over-allotted locally funded teaching positions. All of these are reasonable suggestions and they are things we are doing. We have had to make other cuts too, some that we don't think are good cuts in things like textbooks and staff development, but we are doing what we have to.

I don't have the answers either but I know we have to do something. Chatham County Schools has 67 mobile units. A mobile unit has about a twenty-year life span and some are aging out now. People have suggested that we can move them around where we need them but that's only partially true. Most of the older units can't be moved without falling apart and it's very expensive to move them. Mobile classrooms are not really the answer. We own eleven facilities that have at least some buildings that over fifty years old. We have leaking roofs and we have many restrooms that are in such bad shape they can't even be cleaned well.

I know that none of you want your children to go to schools that are so old or in such poor condition that they can't even be cleaned well; schools with leaking roofs or bathrooms that your child isn't comfortable using. I think we all want our children to go to school in

safe, clean, attractive, welcoming facilities. We want them to be comfortable where they are learning. We want our children to take pride in their school.

Someone earlier referred to the schools having been underfunded for 30 years. That was true, we were underfunded for the number of facilities and the age of the facilities that we are trying to maintain. This has changed. The current Board of Commissioners has valued education in Chatham County and they have tried to help us get caught up. We truly appreciate what they have done. But we all understand that there is only so much money and they have to make some difficult decisions about how to allocate the funds. It is difficult to catch up after all those years of just doing what we could to get by. The Commissioners have been generous with us but some of our older facilities still need a lot of work.

I don't want higher impact fees. I live in a four-bedroom house and the options we are looking at would have been expensive for me. I don't have plans to build but if I did, I would probably build another four-bedroom house. I hope to have my children back in this area and I hope to fill it up with grandchildren one day. That would be a choice I would make. We have heard about how hard this will impact young couples and the elderly; but most young couples won't be building a four-bedroom house, neither will most elderly couples unless that is the choice they make because they can afford it. Impact fees will only affect you when you are buying or building a new home; for most of us that will be only once or twice, if ever. And impact fees will only affect people who can afford to build a new home. Increases in property taxes will hit each of us every year. That includes those young couples and those elderly couples who are on fixed incomes and can barely afford their medicines or even food. There is no easy solution.

Now I supported the Land Transfer Tax, which I think most people didn't understand, because it had a greater impact on those who could most afford it and a lesser impact on those with more modest means. But since the county didn't support it, now we are going to have to find some other way to pay for our schools. Growth may have slowed for now, but it will pick up again and we must be prepared. We have old buildings that we cannot continue to neglect.

I hope that the next meeting like this will bring more suggestions for ways to meet our school system's needs without placing too much of the burden on those who can least afford it.

My time is up but I would like to explain one thing. The question has been raised tonight by some of the developers and builders as to why most other states do not have impact fees. North Carolina is one of the few states left in the country, I believe there only about eight of us, where school boards do not have the authority to levy taxes. Most states allow Boards of Education to raise the money they need to fund quality education and to build and maintain their facilities."

**John Graybeal**, 3396 Alston Chapel Road, Pittsboro, NC, presented his comments to the Board and provided them in their entirety for the record as follows:

"As I have listened to the earlier speakers, it seems to me that many good questions have been asked and good points made about the issues associated with impact fees. One of the broader ones is whether there is (and will be) an appropriate balance between property taxes and impact fees in terms of the burden each revenue source bears in supporting the Chatham County school system. Of course, schools are now the largest Chatham County expenditure accounting for 45% of the budget and property taxes are the largest source of revenues, accounting for 63% of the total. Accordingly, schools now receive a substantial portion of support from property taxes. That would seem to answer the argument that since citizens generally benefit from the school system, they should support it. With this base, targeting future developments with an impact fee for the cost of school needs created by them seems fair and appropriate (even though this targeting system is not "airtight" since some new housing will occur in areas where no new school infrastructure is build). A contrary argument, however, is that the impact fee has been asked to bear too much of the burden because a larger percentage of new students come from existing homes, as opposed to new homes, than is reflected in the current allocation between property taxes and the impact fee. Presumably the relevant data is available to answer that question. It would seem that this issue should be considered.

Good arguments have also been made that small, inexpensive new homes, single-wide trailers and “affordable housing” have been forced to pay excessively through the impact fee system. Might it be possible, consistent with legal constraints, to isolate some of these housing forms into their own categories for impact fee purposes? Note that something like that is done now with the impact fee of \$3500 for new residences but only \$1100 for apartments.

The TischlerBise report does not have a very extensive set of data supporting its projections for population and student growth. (Appendix A, pp. A-4 – A-7) It assumes a “linear” growth rate of 1.8% for the next three years and a faster rate for the following seven years. Those assumptions may not adequately account for the large Chatham County inventory of approved but unbuilt houses and the existence of certain mega-developments that have not yet sought approval. This creates concern that the report may be underestimating future school demands.

Another question presented for public comment is whether the impact fee structure should be the same for all houses or should be scaled according to the number of bedrooms in the house. The TischlerBise report (p. 10) contains data showing that houses with more bedrooms produce more students. That being the case (and, perhaps, even if it were not) it seems fair that larger houses should trigger larger impact fees. For that matter, such a scale may not produce much if any difference in the percentage the impact fee bears to the house price.

The import or significance of the legal discussion in the TischlerBise report (pp. 4-6) is unclear. This discussion seems to suggest that impact fees should be targeted only to those areas in the County accounting for population and student growth. However, for the most part, it would appear that impact fees operate that way inherently. Where there are no new houses, there are no impact fees. On the other hand, the enabling statute provides that the BOC “may divide the county into two or more districts and estimate the costs of needed improvements within each district.” This issue requires further attention and TischlerBise should also advise if there are other legal issues that should be addressed.

The TischlerBise report recommends that the cost of buses (pp. 8, 11, 17, 20-21) and the cost of the TischlerBise report itself (pp. 20-21) be covered by the impact fee. This raises a question whether such expenditures are appropriately included since the statute (copied in Appendix B of the TischlerBise report) provides that impact fees may be used to cover “capital improvements to schools.”

**Jeffrey Starkweather**, 590 Old Goldston Road, Pittsboro, NC, stated that he is a member of the Economic Development Commission and an AHTF member. He stated that the quality of schools is the number one attractor for new business in the County. He suggested that the Board seek local legislation to allow the Land Transfer Tax at 1% with a requirement that the impact fees not be charged.

**Robert Bianco**, 424 Alpine Road, Moncure, NC, stated that his wife owns “Our Neighborhood School Pizzeria”. He stated that she was pretty discouraged with public schools so she decided to go out on her own and open her own school; that he knows how much it costs to build a new school because he built one; that it was \$42,000 to build a 3,000 square foot school with three classrooms and also a pizzeria; that the income from the pizzeria helps fund the school; that she has eight kids there who do very well; that he has been a builder for about thirty years; that he comes from NY State, not because of schools, but because there were no jobs in NY State because they raised the property taxes so high that people cannot afford to live there; that his hometown used to have 43,000 people, now down to 20,000 people; that they moved down here because of lower taxes not better schools; that he is proposing to reduce the spending as much as you can possibly reduce; that if you have to lay people off, that’s what you do; and in combination, the increase in the impact fees is going to hurt the building industry in this County; that he is currently working on a project in Chapel Hill where the impact fee is \$6500, the impact fee for the water is \$5000, the impact fee for the sewer is \$4000; that there is another impact fee for the gas for which they have not received the bill yet; that people need a home, and the Board shouldn’t be touching their home just like they shouldn’t be taxing their food; that if people want to build, they should be allowed to build without an issue; that there are abandoned buildings everywhere because the economy is bad right now; that abandoned buildings should be used for satellite

programs in the schools; that he doesn't have a problem with paying a little more in taxes, but not \$5000 per house; that the impact fee is extremely harmful to this economy in this County.

**Dave Klarmann**, 380 Hatley Road, Pittsboro, NC, stated that he is opposed to raising the impact fee, especially during these hard economic times; that if the Board does decide to increase the impact fee, that they allow it to be paid at closing; that the State of North Carolina has told builders who have houses that are built and empty, that they do not have to pay the property tax now until its sold; and that he is opposed to the idea of a sliding scale based on the number of bedrooms in a dwelling.

## **PLANNING AND ZONING**

### **Public Hearing:**

**Chatham County Lighting Ordinance:** Consideration of a request by the Chatham County Board of Commissioners to adopt the Chatham County Lighting Ordinance. The purpose of the ordinance is to establish outdoor lighting standards for residential and non-residential uses, establish lighting design review and enforcement procedures, and establish an amortization schedule for vehicular canopies in the unzoned areas of the County

After considerable discussion, Commissioner Cross moved, seconded by Commissioner Kost, to approve the changes below and to adopt the Chatham County Lighting Ordinance effective January 01, 2010:

### **SECTION 4 INTENT AND PURPOSE:**

Items 2-6, Delete the word "to" at the beginning of each sentence.

Add Item #7 to read: Abate conditions detrimental to the safety and welfare of the citizens of Chatham County.

### **SECTION 7 DEFINITIONS**

Lighting Administrator - To read as the "Chatham County Manager or his/her designee" instead of Planning Director.

And other minor technical corrections/edits.

The motion carried five (5) to zero (0). The Lighting Ordinance is attached hereto and by reference made a part hereof.

### **Public Hearings:**

**Conditional Use Rezoning on Old Farrington Road Parcel:** Public hearing to receive public comments on a request by Brian Sawyer for a conditional use rezoning on Parcel #82735, located at 525 Old Farrington Road, Williams Township, from R-1 Residential to Conditional Use Neighborhood Business (CU-NB), on approximately 1.16 acres

The Chairman opened the floor for public comments.

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

Commissioner Cross moved, seconded by Commissioner Kost, to continue this matter at the October 19, 2009 Board of Commissioners' meeting. The motion carried five (5) to zero (0).

**Conditional Use Permit On Farrington Road Parcel:** Public hearing to receive public comments on a request by Brian Sawyer for a conditional use permit on Parcel #82735, located at 525 Farrington Road, Williams Township, for multiple uses as stated in the application and as allowed in the Table of Permitted Uses for the Neighborhood Business District

The Chairman opened the floor for public comments.

**Brian Sawyer**, 30024 Village Park Place, Chapel Hill, NC, explained his requests for a conditional use rezoning and for a conditional use permit on Parcel #82735. He stated that they will reduce the amount of parking spaces on the initial drawing and move some of the parking spaces to the side; that the lighting has been changed to “up-lighting”; that it is a straight road and both driveways were in existence when property was purchased and both are currently in use; that they have contacted NCDOT for their approval; that there is an old well house noted on the site plan which they will use for irrigation; that trees added in front will soften the look of both the parking and large door; and that two dry retention areas have been added.

**Jeffrey Starkweather**, 590 Old Goldston Road, Pittsboro, NC, stated that he was representing his daughter and son-in-law who live in Randleman’s Court in the Governor’s Lake Subdivision; that the houses in that area sell for approximately \$500,000; that surprisingly, there are an incredible number of young children living there, including his two grandchildren; that his main concern is that they have no conception of what is going on; that his understanding of the conditional use permit in the past, is that it should be for a specific condition; that then they can look at the site plan to see whether that is appropriate for that condition; that the second one is that I did not know, until Mr. Sawyer admitted it, that this was being used illegally to locate construction equipment; that he would point out that children are going to be all over construction equipment; that that it could be dangerous; that the visual aspect of this to seeing construction equipment out your back yard; that he doesn’t think any of the neighbors are opposing the idea of a neighborhood business that’s properly screened and that they know exactly what the use is, but he asks the Commissioners to have the applicant specify the specific use, the hours of operation in the conditional use permit itself and in light of the fact that none of the neighbors knew what the specific business was; and that this hearing needs to be left open to give those neighbors an opportunity to potentially speak once they hear what the specific business is going to be.

Commissioner Vanderbeck moved, seconded by Commissioner Kost, to continue this matter at the October 19, 2009 Board of Commissioners’ meeting. The motion carried five (5) to zero (0).

**Stormwater Ordinance Revisions:** Public hearing to receive public comments on a request to adopt Stormwater Ordinance revisions necessary for Minor Subdivision applications

The Chairman opened the floor for public comments.

**Loyse Hurley**, 16 Matchwood, Pittsboro, NC, President of Chatham Citizens for Effective Communities (CCEC), presented her comments to the Board and provided them in their entirety for the record as follows:

“Sometimes, when considering the overall forest, we cannot see the individual tree. This appears to be the case when we considered the Storm Water Ordinance. We were looking at the overall protection of the County and considering large developments. As an unintended consequence of our endeavor to protect the environment, we didn’t realize how burdensome this ordinance might be on our Minor Subdivisions.

These amendments provide a mechanism for posing less of a burden on these smaller subdivisions while still maintaining protection of our environment. A final plat notation of compliance for developments less than 20,000 square feet is far less burdensome on an individual family or developer than having a detailed engineering study preformed. Similarly, for those developments that are larger than 20,000 square feet but still considered as minor sub-divisions, compliance with the requirement that the post development run off equals the pre-development discharge in the 2 year 24 hour storm appears to adequately protect the environment while allowing for more reasonable requirements for the small developer. We have also noted that the proposed revisions provide guidance for individual single family residences in order to achieve this goal.

The county is to be commended for catching this problem and taking these steps to correct it. CCEC fully supports these changes. Thank you.”

The Chairman closed the public hearing.

Commissioner Vanderbeck moved, seconded by Commissioner Thompson, to adopt An Ordinance Amending the Stormwater Ordinance of Chatham County. The motion carried five (5) to zero (0). The Ordinance is attached hereto and by reference made a part hereof.

### **BOARD OF COMMISSIONERS MATTERS**

**American Tobacco Trail Agreement with Cary:** Approval of agreement with Cary for American Tobacco Trail

By consensus, this item was removed from the Agenda due to time constraints and will be considered at the October 05, 2009 Board of Commissioners' meeting.

**Nonprofit Allocation for Boys and Girls Club:** Approval of the recommendation of the nonprofit volunteer panel to fund the Boys and Girls Club at \$20,000 as a challenge grant to be released when the club has raised \$32,000

Ms. Paschal explained that the Boys and Girls Club, along with several other agencies, missed the County's deadline for submitting an application for nonprofit funding. During budget deliberations, Commissioners agreed to reopen the nonprofit process to consider the Boys and Girls Club's request and referred the other requests to the Economic Development Corporation to review. Commissioners made this decision primarily because of the closing of the Teen Center due to loss of state funds. Commissioners designated up to \$20,000 from contingency to fund the Boys and Girls Club's request, pending review by and a recommendation from a volunteer panel.

She stated that the volunteer panel met on September 1<sup>st</sup> and heard a presentation from the Boys and Girls Club. The panel's recommendation is to fund the request fully as a challenge grant, meant that the Boys and Girls Club would need to raise \$32,000 before the County's funds would be released. The Club must raise a total of \$52,000 before hiring a Chief Professional Officer. The County would provide the remaining funding for this goal to be met.

Commissioner Thompson moved, seconded by Commissioner Vanderbeck, to approve the volunteer panel's recommendation to allocate \$20,000 to the Boys and Girls Club from contingency. Funds will be released when the Club has raised \$32,000. The motion carried five (5) to zero (0).

### **MANAGER'S REPORTS**

#### **Chatham Together!:**

The County Manager explained that Chatham County Together! Requests that the following Chatham County 09/10 allocation:

Governors One-on-One	\$ 10,000
Mentoring Guided Growth	17,625

Be changed to:

Governors One-on-One	\$ -
Mentoring Guided Growth	27,625

Commissioner Cross moved, seconded by Commissioner Vanderbeck, to approve the Chatham County Together! Request to transfer the Governors One-on-One allocation in the amount of \$10,000 to Mentoring Guided Growth allocation in the amount of \$27,625. The motion carried five (5) to zero (0).

#### **Departmental Evaluation Recommendations:**

Ms. Paschal recommended that the Manager's Office, Management Information Systems (MIS), and Parks and Recreation Department be evaluated on services provided.



After considerable discussion, Commissioner Vanderbeck moved, seconded by Commissioner Kost, to select the Manager's Office and Parks and Recreation and to proceed with the evaluation process. The motion carried five (5) to zero (0).

**COMMISSIONERS' REPORTS**

The Commissioners had no reports.

**CLOSED SESSION**

Commissioner Vanderbeck moved, seconded by Commissioner Cross, to go out of Regular Session and convene in Closed Session for the purpose of attorney/client privilege. The motion carried five (5) to zero (0).

**REGULAR SESSION**

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

**ADJOURNMENT**

Commissioner Vanderbeck moved, seconded by Commissioner Cross, to adjourn as the Chatham County Board of Commissioners. The motion carried five (5) to zero (0), and the meeting adjourned at 10:11 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