

MINUTES
CHATHAM COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING, MAY 19, 1997

The Board of Commissioners ("the Board") of the County of Chatham, North Carolina, met in regular session in the District Courtroom, located in the Courthouse Annex, Pittsboro, North Carolina, the regular place of meeting, at 7:00 P.M. on May 19, 1997.

Present: Chairman Margaret Pollard; Vice Chair Betty Wilson;
Commissioners Uva Holland, John Grimes, and Henry
Dunlap; County Manager, Charlie Horne; County Attorney,
Robert L. Gunn; Assistant County Manager, Reneé Dickson;
and Clerk to the Board, Sandra B. Lee

The meeting was called to order by the Chairman at 7:01 P.M.

AGENDA

The Chairman asked if there were additions, deletions or corrections to the Agenda.

Charlie Horne, County Manager, asked that Items #3 and #4 be removed from the Consent Agenda and discussed later on the Agenda; that a Resolution Proclaiming June 7, 1997 as Anne Barnes Day be added to the Consent Agenda as Item #5A; that a request to the NCDOT-Rail Division to Acquire Rail Corridor in Chatham County be added to the Consent Agenda as Item #5; and that a Closed Session for the purpose of discussing litigation be added as the final item on the Agenda.

Commissioner Holland asked that Item #16, Chatham County Employees' Health Insurance, be removed from the Agenda.

Commissioner Wilson moved, seconded by Commissioner Holland, to approve the Agenda with the noted requests. The motion carried five (5) to zero (0).

CONSENT AGENDA

The Chairman directed the Clerk to the Board to read the Consent Agenda. Commissioner Holland, seconded by Commissioner Wilson, to approve the items listed on the Consent Agenda as read by the Clerk.

1. **Minutes:** Consideration of approval of Board Minutes for regular meeting held May 05, 1997 and Budget Input Sessions held April 28, 1997, April 29, 1997, and April 30, 1997 and Board of Equalization and Review Minutes for May 5, 1997 and May 12, 1997 Meetings

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

2. **Request for Preliminary Approval for Windham Subdivision:** Consideration of approval of a request by Mr. Eric Schwartz for subdivision preliminary approval for Windham Subdivision consisting of 10 lots on 51.8 acres off SR #1700 (North Pea Ridge Road) in New Hope Township

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

3. ~~**Request for Final Approval of Bush Creek (Phase V of Section VIII), The Village of Fearington:** Consideration of a request for subdivision final approval of Bush Creek (Phase V of Section VIII), The Village of Fearington, on 10.922 acres in Williams Township~~

- This item was removed from the Consent Agenda and placed on the Regular Agenda as Item #13A.

4. ~~**Amendment to the Ordinance Granting FirstHealth an Emergency Medical Services Franchise:** Consideration of an amendment to the ordinance granting FirstHealth an Emergency Medical Services franchise~~

- This item was removed from the Consent Agenda and added to the Regular Agenda as Item #15A.

5. **Community-Based Alternatives Funds Allocation:** Consideration of approval of the recommended allocation for CBA funds, attached hereto and by reference made a part hereof

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

- 5A. **Resolution #97-23 Proclaiming June 7, 1997 as Anne Barnes Day:** Consideration of approval of Resolution #97-23 Proclaiming June 7, 1997 as Anne Barnes Day

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

- 5B. **Letter Requesting NCDOT-Rail Division to Acquire Rail Corridor in Chatham County:** Consideration of a request that the section of rail corridor in Chatham County be acquired by the NCDOT-Rail Division as part of the 1998 TIP

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

END OF CONSENT AGENDA

PUBLIC INPUT SESSION

- There was no one present who wished to make comment during the Public Input Session.

PLANNING & ZONING

Public Hearings

- The Chairman administered the oath/affirmation to those in attendance who wished to make public comment.

- **Public Hearing on Request by BellSouth Mobility DCS for a Revision to an Existing Conditional Use Light Industrial District:** Public hearing to receive public comment on a request by BellSouth Mobility DCS for a revision to an existing Conditional Use Light Industrial District with a Conditional Use Permit for a communication tower on the east side of SR #1910 (New Elam Church Road) in

Cape Fear Township to co-locate on the existing 360 Communications 300' Guy Tower

There was no one present who wished to make comments regarding this issue.

Public Hearing on Request by Jeffrey H. Cosgrove for a Conditional Use B-1 Business District with a Conditional Use Permit: Public hearing to receive public comment on a request by Jeffrey H. Cosgrove for a Conditional Use B-1 Business District with a Conditional Use Permit for a landscape nursery on a 12 acre tract of land owned by Paul W. Goodwin located on the south side of Hwy. 64 East in New Hope Township

Carter Crawford, 3519 New Hill-Holleman Road, New Hill, NC, stated that his goal is to consolidate operations now located in Apex and Johnston County in Chatham County; that his present goal is to provide high-quality landscape installation and design services; that the site is well suited to his needs because it offers sufficient cleared area for growing and storing of plants, an existing pond for irrigation, ample room for office and equipment storage facilities, excellent location on Highway #64, and large area to allow for future expansion, if needed. He stated that his nursery operation differs from conventional operations in that each tree or shrub is planted in a plastic container; that the plastic container is then placed in an identical container which has previously been permanently installed in the ground; that each plant has its own irrigation emitter that supplies water and nutrients only to the individual plant's root zone, thereby using much less water and fertilizer and virtually eliminating runoff and erosion. He stated that his business will provide Chatham County with the economic advantages of commercial development, while maintaining the rural character of the area. A list of conformance with the Land Development Plan, issues of concern, and acceptable conditions are attached hereto and by reference made a part hereof.

Public Hearing on Request by Governors Club Limited Partnership for a Revision to their Existing Planned Unit Development: Public hearing to receive public comment on a request by Governors Club Limited Partnership for a revision to their existing Planned Unit Development with a Conditional Use Permit for residential development, mixed use, O&I and B-1, as applicable, to include Horton Lake Tract (16.32 acres)

Mark Ashness, 5421 Dunmore Road, Wilmington, NC, stated that Governors Club wishes to add a parcel of land that is continuous to its current property, so they are returning to the Board to revise the planning development plan. He stated that the majority of the Gordon Lake tract includes approximate 16.3 acres; that the lake is a little over seven and one-half acres in size; that the entire property is nearly undeveloped; that there are two small tributaries which move through the Governors Village property heading south toward the lake; that this seemed like the ideal location in order to build something to not only help the storm water control but also serve as for recreational use; that with regard to the main center of the village, they are excited about how it will be transformed; that a traffic study has been done and although proposed improvements may not be warranted initially, they will probably be needed sometime prior to the buildout of the entire development; that it is therefore recommended that traffic conditions be monitored throughout major construction phases of this development; that land improvements and installation of traffic signals should be implemented when they are fully warranted; that all of the homes have been platted and the majority of the lots sold; that they are proposing to increase the commercial retail of the village to approximately 358,000 sq. feet. He stated that the revisions proposed in this application serve to expand the progressive concept of the "neo-traditional" village that has quickly become the most desirable design alternative sought for new developments; that Governors Club is not simply seeking to add commercial and O&I space and residential lots to an already exceptional appealing traditional town atmosphere which promotes community spirit and pride; that by approving this revised Planned Unit Development, Chatham

County has the unique opportunity to offer an expanded village atmospheres all conveniently located near major employment areas such as Research Triangle Park, as well as, downtown Durham and Chapel Hill.

Public Hearing on Ordinance Establishing a Moratorium on the Construction and Erection of Personal Wireless Facilities in Chatham County: Public hearing to receive public comment on an ordinance establishing a moratorium on the construction and erection of personal wireless facilities in Chatham County

Chris Cox, an attorney with Kilpatrick Stockton, L.L.P., 4101 Lake Boone Trail, Suite 400, Raleigh, NC, stated that in developing the new ordinance regarding this matter, they welcome the opportunity to work with the Commissioners and Planning Director on the moratorium; that it is the position of BellSouth on the rewrite is that it is not necessary to place a moratorium on new development while the ordinance is being rewritten; that a rewrite can be accomplished without the need for a moratorium; and that if the Commissioners determine that a

moratorium is necessary, they feel that ninety days instead of one hundred eighty days is all that is needed to rewrite the ordinance.

***See Page 9 for adoption of Ordinance Establishing a Moratorium on the Construction and Erection of Personal Wireless Facilities in Chatham County.**

Jerry Eatman, 3625 Laurel Hills Road, Raleigh, NC, stated that on behalf of 360 Communications and Sprint Spectrum, they would like to see the moratorium set up so that it is geared toward the rewrite of the ordinance; and that they would like to see it done as one hundred eighty days or whenever the ordinance is passed.

BOARD OF COMMISSIONERS' MATTERS

Public Hearing

Public Hearing on the Proposed 1997-98 Chatham County Budget: Public hearing to receive public comment on the proposed 1997-98 Chatham County Budget

Charlie Horne, County Manager, presented a brief overview of the recommended 1997-98 Chatham County Budget.

Ray Greenlaw, 2 Jordan Drive, Pittsboro, NC, stated that he appreciated the extremely difficult decisions facing the Board of Commissioners as they consider the County budget and related issues. He asked that the Commissioners think especially of the long range implication of their actions as follows: 1) Commissioner decisions foster the well-being of all Chatham County citizens, rather than just responding to the petitions of those with narrower, special interest; 2) Commissioners not authorize any significant increase above the funding levels proposed in the County Manager's recommended budget without providing specific rationale for taking such action; 3) Commissioners take definitive action to require all funded entities to account for the use of the resources allocated by the Board, beginning with any increase in funding above the current year's authorization which is not attributable to inflation in costs, through application of specific performance measures.

Annette Henry, 211 E. Six Forks Road, Raleigh, NC, representing the Triangle Radio Reading Service (TRRS), a small, non-profit, organization serving the elderly and visually impaired people throughout

the Triangle area, thanked the Commissioners for their time and stated that TRRS has been serving the elderly and visually impaired people in Chatham County for the last six years; that there are one hundred thirty volunteers which serve the TRRS; that these volunteers read national newspapers, books, and magazines over the air for the benefit of people who can not read, which include not only the visually impaired, but also those with dyslexia or other problems; that volunteers also record programs dealing with special subjects such as local events, food, drugs, health, travel, finance, and exercise; that the TRRS broadcast signal covers the entire counties of Wake, Durham, Orange, Chatham, Alamance, and Lee; that TRRS depends entirely on financial contributions from local governments, United Way Chapters, organizations, and individuals for donations. She asked for consideration of \$1,000 from the Commissioners to support this service in Chatham County.

PLANNING & ZONING

Request by Big Woods Development L.L.C. for a Zoning District Change: Consideration of a request by Big Woods Development L.L.C. for a zoning district change from RA-5 to RA-40 with a Conditional Use Permit for a Planned Unit Development of 516 dwellings on 597.894 acres owned by Harris Family Land Trust located off SR #1716 (Big Woods Road) in Williams Township

Commissioner Grimes stated that he knows that his forthcoming motion will not be agreed upon by some individuals; that he hopes that even though they do not agree with him and do not necessarily respect his motion, that they will respect the difficulty he had in making his

decision. He further stated that due to changed conditions and advances in technology since the adoption of the land development plan, specifically the construction to make US Hwy. #64 four-lanes, paving of the Big Woods Road, development of the County water system, developments in home-site land applications and wastewater that he wished to make the following motion.

Commissioner Grimes moved, seconded by Commissioner Dunlap, to approve the change in zoning for the Astoria project from RA-5 to RA-40.

Commissioner Wilson stated that she feels that this project is a very attractive development; that she would be very pleased to welcome it to Chatham County if it were to be located anywhere other than on the lake; that although they talked about using the latest technology and that technology has improved tremendously, she does not feel that it has been in effect long enough to prove itself and there has been other technology to fail over the years; that there are no guarantees; that she does not want Chatham County lakeside to be the testing ground for new technology; that beyond that, one of her main concerns is that it does not fit in with the Land Use Plan; that she has been working with the Strategic Plan Development Committee and the Planning Board and that Chatham County is so diverse and so different in many ways; that there was one theme derived from every committee meeting held which was to preserve the rural character of Chatham County; that this does not mean that the County can not have any dense development within the County, but that of all places to preserve as rural with the farmlands in the west, she feels that the east lake area is by far one of the last areas into which the Commissioners should put dense development. She stated that she would welcome this development in some other place; that there will be other opportunities; that this is just the beginning of what is coming to Chatham County; that the County is the "prize plum on the tree"; that she thinks that there many developers coming; that if the Commissioners change the Land Use Plan for this developer, it will have to be done again and again and that it makes having a Land Use Plan mute; that the County has the responsibility to protect the region, to protect the water supply to the best of its ability; and although she feels that the developer has made every effort to do the very best that can be done, she feels that the lake now belongs to the region; that other areas will be getting water from the lake, and she feels a responsibility to protect it.

Commissioner Pollard stated that she respected Commissioner Grimes motion and the struggle he had in making it; that she had looked over the findings many times, and she too, is convinced that the technology is here to protect the water source; that finding #4 suggests that the change should not be a substantial departure from the Land Development Plan; that when one moves from RA-5 to RA-40, it is a substantial increase; that even though the technology is available, it is mechanical; that mechanical things break down; that they may handle ordinary weather but there has been extraordinary big rains; and that she is troubled by that much of a departure from the Land Development Plan.

Commissioner Dunlap stated that Keith Megginson (Chatham County Planning Director) had in the agenda notes the probability of some RA-5 lots not being converted to RA-40 ; that it is not necessarily so; that it would still mean that they would have to do most of the things that this group is doing.

Commissioner Holland stated that all of them are concerned about the water quality; that she believes that the technology available is the best that the County can have; that she has talked with other counties that use it and have used it for awhile and that anything that is man-made might give some problems, but that she feels the development is a good plan; that technology is the best available for this time; and as a Commissioner, she would certainly work to see that the County always has the best technology available; that since it will be a regional water, she feels everyone will work together to make sure that the County has the best technology available.

Commissioner Grimes moved, seconded by Commissioner Dunlap, to change the zoning from RA-5 to RA-40. The motion carried three (3) to two (2) with Commissioners Pollard and Wilson dissenting.

Commissioner Grimes moved, seconded by Commissioner Holland, that the five findings be made as follows:

- 1) The use requested is among those listed as an eligible conditional use in the district in which the subject property is located or is to be located.
- 2) The requested conditional use permit is either essential or desirable for the public convenience or welfare.
- 3) The requested permit will not impair the integrity or character of the surrounding or adjoining districts, and will not be detrimental to the health, safety or welfare of the community.
- 4) The requested permit will be consistent with the objectives of the Land Development Plan.
- 5) Adequate utilities, access roads, drainage, sanitation and/or other necessary facilities have been or are being provided.

and that the Board approve the Conditional Use Permit for a Planned Use Development as submitted with the conditions that:

- 1) A management plan of swimming pool, filter, back-wash water be drawn up
- 2) That a street lighting system be installed that shields lights from above so that the light is focused downward

- 3) That a surface water monitoring system be installed similar to the one located at Governors Club

Commissioner Wilson asked that since the request has passed, she would like for it to be returned to the Planning Board for careful review.

Commissioner Dunlap stated that he did not feel that this was the answer and did not favor the request being returned to the Planning Board with there being no possible improvement from before.

The motion carried three (3) to two (2) with Commissioners Pollard and Wilson dissenting.

Commissioner Grimes moved, seconded by Commissioner Dunlap, that the Board make the five findings set forth in Exhibit A, attached hereto and by reference made a part hereof, and that the same be incorporated into the motion to approve the Conditional Use Permit. The motion carried five (5) to zero (0).

Request by John R. Callaway, Sr. for a Revision to his Existing Conditional Use Heavy Industrial District: Consideration of a request by John R. Callaway, Sr. for a revision to his existing Conditional Use Heavy Industrial District with a Conditional Use Permit for a rock crusher on 100 acres on the north side of SR #1011 (Old US #1) in Merry Oaks, Cape Fear Township, to allow a cellular communication tower on 6.681 acres

Commissioner Wilson moved, seconded by Commissioner Holland, that the five findings be made and the request be approved with the conditions listed below:

- 1) Equipment cabinets shall be a minimum of 100 feet from adjacent property lines.
- 2) Tower(s) shall not exceed 240 feet in height.
- 3) A security fence of not less than eight (8) feet in height shall be installed around the tower(s).
- 4) Vegetation that provides a continuous all season opaque screen at least six (6) feet in height within four (4) years of planting or setting said vegetation. Vegetation shall be not less than two (2) feet in height at the time of planting.

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

Request by North Carolina RSA#6 Limited Partnership d/b/a 360 Communications Company for a Light Industrial Conditional Use District: Consideration of a request by North Carolina RSA#6 Limited Partnership d/b/a 360 Communications Company for a Light Industrial Conditional Use District with a Conditional Use Permit for a communication tower on 6.976 acres owned by Gordon B. and Corina H. Herbert, east of Hwy. 751, Williams Township

Commissioner Grimes moved, seconded by Commissioner Holland, that the five findings be made, approve the application, and that the request be approved with the listed conditions:

- 1) Equipment cabinets shall be a minimum of 100 feet from adjacent property lines.
- 2) Tower(s) shall not exceed 225 feet in height.

- 3) A security fence of not less than eight (8) feet in height shall be installed around the tower(s).
- 4) If the existing natural vegetation is removed such that screening of the equipment building is reduced, a vegetative buffer as described shall be planted. Vegetation that provides a continuous all season opaque screen at least six (6) feet in height within four (4) years of planting or setting said vegetation. Vegetation shall be not less than two (2) feet in height at the time of planting.
- 5) The tower shall be designed and the company allow (at reasonable prevailing market rates) other facilities to co-locate on the tower.
- 6) To provide for public safety, Chatham County antennas shall be allowed to locate the facility where same will not interfere with other providers and not compromise tower integrity. There shall be no access fee for said co-location.
- 7) Other facilities may locate on the site without amendment to the conditional use permit provided conditions are met.

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

Request for Final Approval of Bush Creek (Phase V of Section VIII), The Village of Fearington: Consideration of a request for subdivision final approval of Bush Creek (Phase V of Section VIII), The Village of Fearington, on 10.922 acres in Williams Township

Commissioner Grimes moved, seconded by Commissioner Wilson, to grant final approval with the acceptance of the financial guarantee. The motion carried five (5) to zero (0).

Public Hearing on Ordinance Establishing a Moratorium on the Construction and Erection of Personal Wireless Facilities in Chatham County: Public hearing to receive public comment on an ordinance establishing a moratorium on the construction and erection of personal wireless facilities in Chatham County

Commissioner Wilson moved, seconded by Commissioner Grimes, adoption of the ordinance entitled “**An Ordinance Establishing a Moratorim on the Construction and**

Erection of Personal Wireless Facilities in Chatham County”, attached hereto and by reference made a part hereof, with the amendment that it shall be effective for a period of 180 days from this date or until the County has prepared and adopted an ordinance regulating communications towers, whichever first occurs.

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

BOARDS AND COMMITTEES

~~**Chatham County Solid Waste Advisory Committee Appointment:** Consideration of an appointment to the Solid Waste Advisory Committee~~

This item was removed from the agenda to be rescheduled at a later date.

Appearance Commission Reappointment: Consideration of a reappointment to the Appearance

Commission

Commissioner Wilson moved, seconded by Commissioner Holland, to reappoint Ms. Bunny Stone to the Appearance Commission. The motion carried five (5) to zero (0).

BOARD OF COMMISSIONERS' MATTERS

~~**Chatham County Employees' Health Insurance:** Consideration of approval of Chatham County Employee's Health Insurance~~

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This item was removed from the Agenda.

Amendment to the Ordinance Granting FirstHealth an Emergency Medical Services Franchise: Consideration of an amendment to the ordinance granting FirstHealth an Emergency Medical Services franchise

The County Attorney explained that to make the change consistent with the Ordinance providing that you can grant franchises (\$1,000,000 of insurance on each vehicle for personal injury or death and \$1,000,000 for property damage) and provided that the franchise be revocable if the holder of the franchise violated that ordinance giving them the franchise or violated the County ordinance that provided for the regulation of ambulance service and the correction of typographical errors.

Commissioner Holland moved, seconded by Commissioner Wilson, to adopt the new **Ordinance Granting FirstHealth an Emergency Medical Services Franchise**. The motion carried five (5) to zero (0). The Ordinance Granting FirstHealth an Emergency Medical Services Franchise is attached hereto and by reference made a part hereof.

MANAGER' S REPORTS

The County manager informed the Commissioners of the following:

- 1) **Land Use Transfer Tax:** Word was received that the local bill for the land transfer tax is probably not going to pass legislation.
- 2) **Public Hearing for Special Use for Property on Hwy. #64East:** A public hearing needs to be scheduled for the June 16, 1997 Board of Commissioners' meeting in order to receive public comment on the proposed Goldston Building Supply proposal

Commissioner Wilson moved, seconded by Commissioner Holland, to schedule a public hearing for the June 16, 1997 Board of Commissioners' meeting at 7:00 PM on the proposed location of Goldston Building Supply. The motion carried five (5) to zero (0).

- 3) **Budget Meetings:** There are two budget meetings to be held as follows:

May 27, 1997	5:00 PM	Agriculture Conference Room
May 29, 1997	9:00 AM	Byrd's Building Classroom

- 4) **June 2, 1997 Work Session:** During the afternoon work session of the June 2, 1997 Board meeting, it was suggested that the Capital Improvements Plan and the Facilities Study be addressed.

COMMISSIONERS' REPORTS

There were no Commissioner reports.

CLOSED SESSION

Commissioner Holland moved, seconded by Commissioner Grimes, to go out of Regular Session and into Closed Session for the purpose of discussing litigation. The motion carried five (5) to zero (0).

REGULAR SESSION

Commissioner Grimes moved, seconded by Commissioner Wilson, to go out of Closed Session and reconvene in Regular Session. The motion carried five (5) to zero (0).

AUTHORIZATION TO HIRE ATTORNEY

Commissioner Grimes moved, seconded by Commissioner Wilson, to authorize the County Manager to hire Mike Brough as counsel to represent the County in the suit by the Agri-Business Council against the Chatham County Board of Health and Health Director, Wayne Sherman. The motion carried five (5) to zero (0).

ADJOURNMENT

Commissioner Grimes moved, seconded by Commissioner Holland, that there being no further business to come before the Board, the meeting be adjourned. The motion carried five (5) to zero (0), and the meeting was adjourned at 8:29 PM.

Margaret Bryant Pollard, Chair

ATTEST:

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