

**MINUTES**  
**CHATHAM COUNTY BOARD OF COMMISSIONERS**  
**WORK SESSION**  
**OCTOBER 18, 2010**

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The Board of Commissioners (“the Board”) of the County of Chatham, North Carolina met in the Chatham Community Library, Meeting Room, located in Pittsboro, North Carolina, at 2:30 PM on October 18, 2010.

Present: Sally Kost, Chair; George Lucier, Vice Chair; Commissioners Mike Cross, Carl Thompson, and Tom Vanderbeck

Absent: Commissioner Thompson was absent.

Staff Members Present: Charlie Horne, County Manager; Jep Rose, County Attorney; Renee Paschal, Assistant County Manager; Vicki McConnell, Finance Officer; and Elizabeth Plata, Deputy Clerk to the Board

*Work Session*

1. **Session Law 2010-177:** Consideration of a recommendation from the Planning Board on the recently adopted Session Law 2010-177 – “An Act to Amend the Permit Extension Act of 2009.” The recommendation specifically addresses the opt-out provision provided in the session law.
2. **Western Wake Partners Discussion:** The Board of Commissioners will continue to discuss information from the September 8, 2010 meeting and review a possible schedule to complete its work and determine a response to the request to extend an outfall line from the New Hill facility to the Buckhorn discharge site.
3. **Historic Courthouse Discussion:** The Board of Commissioners will continue to discuss the task force recommendations, public input comments and other information to begin deciding a timetable and course of action and use of the rebuilt courthouse.
4. **Nonprofit Allocation Process:** Approval of a request to adopt changes to the nonprofit allocation process, as suggested by staff, establishing a policy to limit administrative expenses for new agencies to a two-year start-up period and also substituting the department checklist for the Commissioners’ priorities
5. **Juvenile Prevention Council:** Approval of a request to bring administration of the Juvenile Crime Prevention Council in-house

**CALL TO ORDER**

The Chair called the Work Session to order at 2:33 PM.

The Agenda was reordered and items added since Renee Paschal, Assistant County Manager, will not be able to be here for the night meeting. Setting dates for the budget meetings will be added along with the amendment to the fiscal year 2010-2011.

**SESSION LAW 2010-177**

Jason Sullivan, Planning Director, gave the specifics on this item. This is a discussion on the Permit Extension Act of 2009. It is related to a Planning Board recommendation. This act extended permits that had been issued from the time period

starting January 1, 2008 through December 31, 2010. Any permits that had been issued during that time frame that had expiration dates, all of those expiration dates were put on hold and any time remaining would be tacked onto the end of the Permit Extension Act, starting January 1, 2011. During the short session this year, the Legislature amended the 2009 act, basically to add an additional year for state and locally issued permits. The Bill added another provision – it allows local governments to “opt out” of the additional year by adoption of a resolution. The Planning Board discussed this and forwarded a recommendation to opt out of the Permit Extension Act for conditional use permits and subdivisions. Other permits to consider would be building permits, environmental health permits, and soil and erosion control. He reviewed the issues that Planning Staff thinks the Board needs to consider regarding this Bill and the decision of whether or not to “opt out”:

- HB 683 adds Section 7.1 to the Permit Extension Act titled “Conditions for qualification; termination; right of appeal.” It is not clear if this additional section would be of help to the County. Additionally, the School of Government bulletin includes that “...opting out means that those units will not be subject to certain conditions that apply if permits are extended a fourth year.” There are three requirements that must be met for a development approval to remain valid, which were thought to be implied in the 2009 development approval to remain valid, which were thought to be implied in the 2009 legislation (see Section 7.1(a)(1), (2) and (3) of the 2010 legislation that is included in attachment 2). The question that arises is that if the opt-out provision is used, would those three requirements not apply to the locally approved permits? As an example, staff has ensured that financial guarantees for subdivisions are renewed prior to their expiration, as required by the Subdivision Regulations. If the opt-out is used, would it allow for financial guarantees to expire and the project approval remain valid? Staff thinks this question should be addressed by the County Attorney prior to passing a resolution to opt out of HB 683.
- The Permit Extension Act and HB 683 affect more than subdivision and zoning approvals. The Act and amendments affect most local approvals, including building permits, sedimentation and erosion control plans, environmental health permits, as well as most state permits required for developments. However, the Act and amendments does not affect federal permits (i.e. Army Corps of Engineers permits). Staff is not certain how “opting out” of HB 683 will affect the interaction of these different permits/approvals.
- The opt-out provision appears to allow for local governments to exercise the option for all permits issued locally or to narrow it to certain categories of permits. In considering whether to recommend exercising the provision, the Board will need to consider whether to limit it to subdivision and conditional use permit approvals. As an example of how this impacts other permits, a building permit, to remain valid, must have an inspection within six months of issuance and then have at least one inspection every year. This is by the NC Building Code, whereas subdivision and conditional use permit approvals are set by the Board of Commissioners. Therefore, the impact of the opt-out is different for certain permits.

Chair Kost said that the recommendation of the Environmental Review Board was to opt out of this for all permits.

Commissioner Lucier asked when a decision had to be made and Mr. Sullivan said that it has to be made by the end of the year, according to the School of Government.

Commissioner Lucier asked what Environmental Health thought about this and Holly Coleman, Health Director, said that their board has not had an opportunity to express an opinion on this yet. This will be discussed at the next Board of Health meeting.

Chair Kost said that there should be time to do this, because the Board of County Commissioners will not be making a decision on this today.

Chair Kost asked for some numbers on the permits. Andy Siegner, Environmental Health Director, stated that in 2006 the sewage treatment rules put restrictions on soil depths. Some of the permits extended from 2003 were written prior to those restrictions. Currently, there are draft rules that when passed will place more restrictions on permits. If the permits are extended further, there will be more outstanding permits. The sewage treatment rules also stipulate that permits expire after six months. There are three things to consider. First, technology changes so much after five years when permits expire. Secondly, property can change hands many times, and this reduces the chance of new property owners being negatively impacted. Thirdly, there are financial implications of losing permit applications. Currently, when a permit expires, a new application is required, along with the fee. He said that if this could be reviewed and voted on every year, it might make more sense, because the economy might be booming in the next two to three years.

Mr. Siegner gave some numbers. Since 2003, there were 4,758 improvement permits issued. Out of that, there were 2,086 that were stalled. That means that there are 2,672 open permits right now.

Mr. Siegner answered clarifying questions of Chair Kost about subdivisions and surveys.

Mr. Siegner said that he took the average of the last five years of the improvement permits that are still outstanding and multiplied it by the typical cost of a 2-3 bedroom system. This comes up to \$85,400 of revenue lost. On the other spectrum, he took one of the lower years in early 2003-2004, which was \$35,200. Somewhere in that range is the potential for revenue loss.

Chair Kost asked how many permits typically expire. Mr. Siegner gave percentages of outstanding permits. In 2003, it was 31%; 2004-2005 was 32%; 2005-2006 was 76%; 2006-2007 was 57%; 2007-2008 was 69%; 2008-2009 was 49%; and 2009-2010 was 41%. So far this year, it is 21%.

Commissioner Lucier asked if a public hearing is needed on this, as he thinks that it might be needed.

Commissioner Vanderbeck said that he would support a public hearing. He suggested doing this on November 15th, so that the Board of Health could weigh in.

Chair Kost stated that Galloway Ridge's permit was ready to expire. She asked if the applicant has contacted staff about this. Mr. Sullivan said that Jenny Williams has been in contact with them about this.

Chair Kost said that she was told that unless this project has the footing inspections by the end of the year, they would have to have different building requirements, which would require a redesign of the building.

Mr. Sullivan said that building permits have expirations that are set by the State. For building permits, the applicants have six months to get the first inspection, and then there must be an inspection every year after.

Commissioner Vanderbeck said that before the public hearing, he would like to see this information in a spreadsheet fashion to see what kind of things kick in over a certain time span and the number of homes involved.

Commissioner Lucier moved, seconded by Commissioner Cross to set a date for the public hearing on November 15<sup>th</sup>, and before then to capture different options on this matter 1) to not opt out; 2) opt out and adopt the Planning Board recommendation regarding subdivisions and conditional use zoning; 3) adopt the Environmental Review Board recommendation, which is to opt out of all; and 4) adopt something in between what the Planning Board, the Environmental Review Board, and the Board of Health recommends. These options should be laid out in an understandable way prior to the public hearing. The motion carried four (4) to zero (0).

**WESTERN WAKE PARTNERS DISCUSSION**

Chair Kost distributed a sheet on this item. She said that, working with staff, she developed the three options the County has with the Western Wake Partners. The three options are as follows:

- 1) Allow the discharge line to be constructed in Chatham County as requested by the Western Wake Partners with no restrictions or concessions.
- 2) Permit access requiring Partners to negotiate successfully with property owners without eminent domain.
- 3) Allow the discharge line to be constructed in Chatham County as requested by the Western Wake Partners, but with one or more of the following conditions/concessions:
  - a. Recreational Easements
  - b. Chatham County Must Approve All Annexations across County Line
  - c. Ratified Joint Land Use Plan with the Town of Cary
  - d. Require that the Partners provide Future Tap-In by Chatham
  - e. Require that the Partners pay legal expenses, appraisal fees up to a maximum of \$10,000 to each of the impacted property owners in which an easement is being acquired.
  - f. All alternate roads to provide access to all areas of an individual's property will be paid by the Western Wake Partners.
  - g. Require compensation for acquiring the easement be indexed or otherwise adjusted so that property owners are compensated for losses in providing the easements in a time where the real estate prices are low.
  - h. Require that the Partners provide to Chatham County government compensation for any loss in tax revenue due to the granting of the easement.

Chair Kost said that she made up the maximum amount in item 'e'.

Commissioner Lucier asked if there were any options that were mutually exclusive. Chair Kost said that item 'b' had a couple of options on how to achieve this (annexation approval).

Commissioner Lucier asked about the timeframe for a local bill and the County Manager said that his best guess would be June or July.

Chair Kost made reference to item 'c' and said that the problem there is that the Town of Cary does not want to meet until this issue is resolved. The work on the Joint Land Use Plan cannot be continued until this issue is resolved.

Commissioner Lucier suggested taking option 'b' with the understanding that option 'c' would be accomplished as soon as possible. He does not see this as being mutually exclusive. He said that he believes that the County should do both 'b' and 'c'. It makes sense to work with the Town of Cary to adopt a Joint Land Use Plan and at the same time require that annexations across the County line require the County's approval.

Chair Kost made reference to item 'a' and said that the Board has not really discussed this in detail.

Commissioner Cross said that he has heard no support for item 'a' from the residents.

Chair Kost made reference to item 'd' and said that she received a letter from Bill Sommers, who said that if a tap-in point can be agreed upon, it would be in the best interest of the County to reserve that for the future.

Commissioner Lucier said that if they incorporated option 2 into 3, which can be done, then option 'g' becomes non-functional. He asked if both option 2 and 3 were incorporated, then would option 'g' be irrelevant.

The County Manager said that this would probably be true.

Chair Kost asked if permission was needed for #2 and it was answered that Partners would need the consent to acquire the property.

Chair Kost said that the question before the Board now is whether there is another option that was missed or if there is another option that has not been discussed but should be listed here. Then staff needs direction to develop a resolution, which will need to be approved at the next evening meeting, which would be November 15<sup>th</sup>.

Chair Kost said that if she felt that they could say no to this and that it would stick, then she would say no. However, she feels strongly that if they do not grant some type of approval that the Partners will go to the General Assembly and seek it. She feels like the best thing would be for Chatham County to have some concessions or some agreement to these issues for protection.

Commissioner Vanderbeck made reference to item 3-d and said that this says that the size of the effluent sewer line would be increased by six inches and the wording is unclear. The limit is actually six inches.

Chair Kost said that this came from the letter from Bill Sommers, and he said that below the tap-in, the size should be increased by six inches.

Commissioner Lucier made reference to option 'b' and said that there is an 8,000 unit development on the west side of Cary, which would make it close to Chatham County. He asked if they should be equally concerned about annexations by Apex as well as Cary.

Commissioner Vanderbeck said that he took option 'b' to mean Apex, since they are also partners.

Commissioner Lucier said that he would like to see a combination of 2 and 3 in terms of County options. Under 3, he would like to look at b, c, d, e, f, and h, with the rewording in item 'd.'

The Board agreed to ask staff to prepare a resolution and work together with the Attorney to include all language needed. The resolution will be brought on November 15<sup>th</sup>.

The County Manager made reference to item 3-b and asked if there was a preference on the two items, 'i' or 'ii'. Chair Kost said that she would prefer 'i'.

### **HISTORIC COURTHOUSE DISCUSSION**

#### ***First Floor:***

David Hughes, Public Works Director, projected the floor plan images on the screen.

Chair Kost said that the Board discussed at the last meeting some type of multi-purpose space at the museum and there was some concern about the masonry walls that cannot be moved. She asked if there was any flexibility in the spaces for moving walls.

Mr. Hughes said that the State Historic Preservation Office has a preference to leave the masonry walls intact as they are.

Commissioner Lucier asked if they were needed for structural stability and if there could be openings and Mr. Hughes said that there could be openings.

A discussion ensued regarding the walls.

Chair Kost said that one of the things the Board talked about was the idea of a multi-purpose museum that could have the museum displays, but also have chairs or tables to serve as a smaller conference center. There would need to be a small warming kitchen for this. She asked if this could be done with the wall restraints.

Taylor Hobbs, Architect, said that this could probably work (small warming kitchen or break room).

Chair Kost asked about the 25-foot restriction for the multi-purpose museum. Mr. Hobbs said that it could be done, but there will be a limit on how big it can be.

Chair Kost said that the other issue she had is one of storage. She wants to make sure that there is enough so that the museum can move out displays, etc. so that there is a place to keep things secure. Commissioner Lucier agreed.

Chair Kost said that Commissioner Cross brought up the point about using the hallways for artist exhibits and a gallery and she would like to incorporate that into the planning. She asked if the Board was in agreement with this and the Board agreed.

Commissioner Lucier asked if it would make sense to have Travel and Tourism in attendance.

Commissioner Vanderbeck said that he has always been supportive of that for an information center. It is a logical place to get information.

Commissioner Cross said that parking would be an issue.

Chair Kost said that she is hearing from the Board that there is lukewarm support for a visitor's center/museum/meeting space.

Commissioner Vanderbeck said that at some point in a space needs assessment, some staff had hoped to have some space in there. He thinks it might be considered if there is room.

Chair Kost said that this was the Attorney and Public Information.

Commissioner Lucier said that he would rather see Travel and Tourism in there.

Chair Kost said that it is probably not big enough for a couple of offices on the first floor.

***Second Floor:***

Chair Kost said that the Board discussed maintaining the courtroom, but having cases that would not require extensive security. Also, the space needs to be flexible while maintaining the integrity of a courtroom and the distinction. The sense was to have the room feel much like it did before the fire. The issue is the flexibility of moving benches and seats, but making it look permanent.

Mr. Hobbs said that it would not look exactly like it did, but there are options. One option would be to have chairs that hook together. There are also options on the benches.

A discussion ensued regarding chair options.

Commissioner Lucier said that he would like some options to look at. He would like the look of something being fixed, but maintaining flexibility on a year-to-year basis and not necessarily a day-to-day basis. Chair Kost agreed.

Commissioner Vanderbeck said that the Board could give the go ahead for the wall paneling and this can proceed, and the seating can be worked out a little later. Mr. Hobbs agreed.

Chair Kost said that she would like to lay this out for an agenda item for the November 1<sup>st</sup> meeting for action so that it is very clear for the citizens. The Board agreed.

### **NONPROFIT ALLOCATION PROCESS**

Renee Paschal, Assistant County Manager, said that the Board talked about this during the budget critique. There are a few problems with the current process and funding decisions are mostly incremental, but the volunteers turn over yearly, so there can sometimes be some volatility in their recommendations. The existing process does not provide an effective way for agencies to coordinate with County departments to ensure that critical needs are being met and that duplication is minimized. About 60% of the funding in the current budget is for administration and not for direct service delivery. There are four options to consider in changing the process:

- Option 1: set base level of funding for administration at 5% less than the previous year, and leaving programming funding at the same level. Also, establish a policy that limits administrative expenses for new agencies to a two-year startup period. Also, substitute the department checklist for Commissioner priorities.
- Option 2: same as Option 1 but set the base funding for all agencies at the same level as last year.
- Option 3: follow the same process as is currently in place, but caution volunteers against large cuts in funding for existing agencies. Establish a policy that will limit administrative expenses for new agencies to a two-year start-up period. Substitute the department checklist for Commissioner priorities. **This is the recommended option.**
- Option 4: leave the process as it is.

Commissioner Lucier said that he was a strong supporter of the department checklist.

Commissioner Vanderbeck moved, seconded by Commissioner Lucier, to adopt Option 3 as shown above. The motion carried four (4) to zero (0).

Commissioner Vanderbeck asked if there would still be audits and Ms. Paschal said that it is based on the amount of revenue generated by the agency.

### **JUVENILE PREVENTION COUNCIL**

Ms. Paschal said that right now there is a joint council with Orange County. There has also been a shared position with Orange County since 1999. In the last few years, that relationship has not worked as well as it had in the past. One reason is that the leadership council that this position is supposed to be staffed to has not met in three years. She is recommending that the leadership council be sunset. This is a way to save money. The proposal is to bring the administration duties back in-house. Lisa West, Budget Analyst in the Manager's Office, would be responsible for those duties. The Juvenile Crime Prevention Council would continue to be shared with Orange County. There would also be an alternating of the location of the meetings between Orange and Chatham Counties. Orange County has agreed to this. Administration would be brought in-house effective July 1, 2011, saving \$18,000 a year in both revenue and expense. The sunset of the leadership council will be effective immediately.

Commissioner Cross moved, seconded by Commissioner Lucier, to approve bringing administration of the Juvenile Prevention Council effective July 1, 2011, and sunseting the Orange/Chatham Leadership Council effective immediately. The motion carried four (4) to zero (0).

### **REIMBURSEMENT TO CHATHAM COUNTY SCHOOLS**

Ms. Paschal said that this is on the consent agenda, but since she will not be at the meeting, she wanted to see if there were questions. She gave some background on this item.

In November of last year, the Supreme Court let stand a decision that required local school districts to share all of the funds budgeted in current expense with the charter schools. The County started discussions with the schools immediately and the payment at that time was estimated to be \$854,000. The actual payment was substantially less – just under \$500,000. The staff agreement at the time was that the costs would be split, but as it turned out, the schools have taken care of the costs by foregoing \$200,000 in capital outlay and for foregoing a facilities assessment of \$209,000. The request from the schools is \$499,477.10. The reason she is not recommending the full amount (\$15,000 less) is that the schools had a modest increase in fund balance. No action needs to be taken at this time.

### **COUNTY MANAGER'S REPORT**

The County Manager said that he wanted to confirm the January 24<sup>th</sup> retreat date.

Ms. Paschal said that the proposal is for the week of January 24<sup>th</sup>.

Chair Kost asked if the 24<sup>th</sup>, 25<sup>th</sup>, and 26<sup>th</sup> would work and the Board agreed. This will be incorporated into the calendar. The regular meetings will be the 3<sup>rd</sup> and the 18<sup>th</sup>.

Commissioner Cross made reference to the request from Margaret Jordan Ellis and the representatives from Deep River on the bicycle map situation. He thought that the bicycle map was going to the Economic Development Commission and Visitor Bureau, but then he got an email from Melissa Guilbeau about a bicycle draft. There is another big ride right after Christmas and the hope was that if the new maps were not done that the County could spot the group about \$1,500 to reprint the old one until the new one is produced. He needs to give an answer.

Chair Kost said that there was \$7,500 in the Economic Development Commission (EDC) budget for that project, so they need to check with Diane Reid.

Jeffrey Starkweather said that the next step was for the Tourist Bureau and Recreation to come back to the EDC Board.

Commissioner Cross asked the County Manager to check with Margaret Goldston about the old map and reprinting it.

Chair Kost said to give general direction to the staff to do this and get the exact number. The Board can take a formal action later, but Commissioner Cross can tell her that it is as good as done.

### **CLOSED SESSION**

Commissioner Lucier moved, seconded by Commissioner Vanderbeck to go into Closed Session. The motion carried five (4) to zero (0).

### **RECESS**

Commissioner Cross moved, seconded by Commissioner Vanderbeck, to adjourn the meeting. The motion carried four (4) to zero (0), and the meeting was adjourned at 5:02 PM.

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Sally Kost, Chair

ATTEST:

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