

**MINUTES**  
**CHATHAM COUNTY BOARD OF COMMISSIONERS**  
**REGULAR MEETING**  
**MAY 02, 2011**

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The Board of Commissioners (“the Board”) of the County of Chatham, North Carolina, met in the Agricultural Building Auditorium, 45 South Street, in Pittsboro, North Carolina, at 6:00 PM on May 02, 2011.

Present: Brian Bock, Chairman; Walter Petty, Vice Chair;  
Commissioners Mike Cross, Sally Kost, and Pamela Stewart

Staff Present: Charlie Horne, County Manager; Jep Rose, County Attorney;  
Vicki McConnell, Finance Officer; and Sandra B. Sublett,  
Clerk to the Board

**INVOCATION AND PLEDGE OF ALLEGIANCE**

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

**CALL TO ORDER**

Chairman Bock welcomed those in attendance and called the meeting to order at 6:02 PM.

**AGENDA AND CONSENT AGENDA**

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

Commissioner Petty moved, seconded by Commissioner Kost, to approve the Agenda and Consent Agenda as follows:

1. **Minutes:** Approval of Board Minutes for the Regular Meeting held on April 18, 2011 and Work Session held on April 18, 2011

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

2. **Emergency Vehicle Crossover at North Chatham Volunteer Fire Department:** Adoption of **Resolution #2011-\_\_\_\_\_ in Support of the Creation of an Emergency Crossover at the North Chatham Volunteer Fire Department – to be the West Bound Lanes of US Hwy. #64 East**, attached hereto and by reference made a part hereof.

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

3. **Raw Water Withdrawal Request:** Consideration of a contract extension for raw water withdrawal from Jordan Lake by Jeff Hunter

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

4. **Cooperative Extension Resolution:** Adoption of **Resolution #2011-\_\_\_ of the Chatham County Board of Commissioners Requesting Action Concerning Funding for the NC Cooperation Extension Service and the NC Agricultural Research Service**, attached hereto and by reference made a part hereof.

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

**END OF CONSENT AGENDA**

## **PUBLIC INPUT SESSION**

Chairman Bock explained the specifics of the Public Input Session.

**Randy Dye**, 173 Olde Farm Road, Pittsboro, NC, presented his comments to the Board and provided them in their entirety for the record as follows:

“I’m here to speak in support of the "Law enforcement" resolution being proposed by the Chairman. This should not be a controversial subject. If you read the proposal, you’ll see that it does not advocate for any specific program or action. It simply encourages local law enforcement to continue using all legal means available to enforce our laws. Some of you want to say that this is a 287(g) resolution. That’s being disingenuous. The 2009 resolution clearly stated that the Board of Commissioners were in strong opposition to any local government agency contracting with ICE for the purpose of enforcing federal immigration laws. If they were trying to say they didn’t want to participate in 287(g), they should have said so. By making that broad statement, they sent a message the rest of the country that we are a sanctuary county.

Even if you don’t believe we are sanctuary county, how could you be opposed to a resolution that encourages our local law enforcement agencies to use all necessary and feasible means to enforce our laws.

I encourage all of you to support this resolution.”

**James E. Pollard**, 3120 Christian Chapel Church Road, New Hill, NC, presented his comments to the Board and provided them in their entirety for the record as follows:

“My name is James E. Pollard, a resident of Christian Chapel Church Road since 1972.

At the January 2011 meeting, I presented you with a petition of folks in favor of extending the potable waterline on down to the Christian Chapel Church and nearby residents. At the present time, there are five locations signed up counting the church.

Since the effluent line from New Hill is coming down Christian Chapel Church Road, we thought maybe you could find enough money to extend the potable water to our church and nearby residents. Our water has to be salt-treated, carbon-filtered, re-filtered and the well bleached every three months to remove sediment and odor, so we can drink our water.

Please, we need potable water on Christian Chapel Church Road.”

Commissioner Cross stated that the water would be on Christian Chapel Church Road if the Harnett County Water Contract had gone through. Since it didn’t go through, that road was taken off the line. There are five sign-ups, but for the County to borrow the money to run that line for 1.2 miles, fifteen would be needed. We can’t borrow the money from USDA Rural Development with less than thirteen per mile and 1.2 would make it fifteen. That is why the folks do not have the water already and probably won’t have it until more people move in.

**Buddy Denise**, 2196 Bonlee-Bennett Road, Siler City, NC, presented his comments to the Board and provided them in their entirety for the record as follows:

“Re: Support of local law enforcement in using all legal means within their authority to enforce the laws of the United States of America, the State of North Carolina and Chatham County

I would like to voice my support of your resolution to rescind the previous Chatham County Board of Commissioners Resolution opposing any local government agency from informing the U. S. Immigration & Customs Enforcement (ICE) of illegal immigrants they become aware of in their duties. We should not be on record as not supporting our laws and the dedicated people of Law Enforcement.”

**Heather Johnson**, 449 Foster Lane, Pittsboro, NC, thanked the County Commissioners for listening to their constituents. She stated that when they campaigned, they campaigned on open-government, campaigned on obeying all of our laws, and campaigned about streamlining government processes to get the economy moving. All of these things the Board has done or

are in the process of doing. The first, she stated, that she wanted to thank the Board for was something that the Chatham Conservative Voice has been asking for since they were elected which is to include a checkbook of the County expenditures on the website. It is done and is great. The Open-government tab on the County website is terrific. On behalf of the Chatham Conservative Voice, she thanked the Board for moving so quickly to do that. Another important step in listening to their constituents is rescinding the ICE Resolution. Taking any question away that our government in Chatham County wants to follow the laws of our entire nation, not just the ones that we feel we want to at the time, is an important message to send that we are a County and a government of laws. She thanked the Board for doing that as well. She stated that she had seen much discussion about the LEED Certification topic discussed on the ChatList and other public forums. Some of the folks that have addressed this issue need to know that LEED Certification is a topic discussion at nearly every County Commissioners' meeting since November. She stated that they had been asking that this waste of taxpayer dollars not be a requirement to build a large building in Chatham County. It is not a guarantee for environmental protection. It is not a guarantee as there are no records nor studies to prove that having a LEED Certified building will ensure energy efficiency. The Board has seen those studies and answered the call. She stated that she thanked the Board for getting the economy moving in Chatham County

**Barbara Lorie**, 117 Blue Heron Farm Road, Pittsboro, NC, stated that she was pleased to be here and see the Commissioners face-to-face. She asked what the Governing Board is doing for the people of Chatham County to prepare us for global warming. She stated that we have witnessed the horrendous increase in violent storms, tornados, climate-upheaval which we know is due to the huge change in weather patterns, and the increased temperatures around the globe from global warming. She asked how our County is prepared to help our citizens before a storm hits this area or after a storm hits this area with the devastation of such a happening. She asked how are they preparing for drought conditions which have been predicted for the South. She asked what kind of control are they ready to assert, prevent overuse of water during a prolonged drought. She asked would it not be better to now have water control before the droughts begin stating that as citizens, they can better use their limited water resources. Finally, she asked the Board to consider a request to the owners of trailer parks to build one tornado safe house for the residents of those parks. She stated that the poorest people in the United States live in trailers which are in no way safe during violent storms. For two years, she stated that she has remained silent on the workings of local and County government and now realizes that we need to immediately prepare for the huge changes, many of which are already here, which our County and the nation and the world are going to face. For detailed information on the effects of global warming, she suggested that any of the national insurance companies be contacted which seem to be the main source for tracking the increase in international disasters. For the past thirty years, they have kept detailed records on the kinds of things to which she is referring.

**Jeffrey Starkweather**, 590 Old Goldston Road, Pittsboro, NC, stated that he has two concerns regarding issues which he considers to be principles on which the majority of the Board ran on in their campaign, open-government and jobs. The first has to do with the budget process. The Board stated when they ran and came into office that they wanted to have more transparent government, more advanced notice of major policies, and greater access to budget documents. From looking at the schedule, the budget will be presented to the public on May 16<sup>th</sup>. Budget hearings will be one week later. This is going to be an unusual and extraordinary budget year because we are looking at major changes in philosophy and cuts in the budget, many of which the public do not know about. He keeps hearing about them periodically from various staff. He doesn't believe that that is sufficient time to give citizens the information they are going to need to look at these budgets to do public input. He reminded the Board that they have plenty of time after that before they approve their budget. He suggested that they give at least another week. He pointed out that Chairman Bock, when he ran, said there ought to be at least two weeks' notice before a resolution that they want to pass is presented. He stated that he thinks a budget is a much bigger issue for the County than a resolution. The second issue has to do with the Community College budget. He stated that he learned that the budget for the Community College is proposed to be cut by 5%. Back when the Commissioners had their retreat, they decided that education was their top priority and that they would not make any cuts to education. He stated that he doesn't see how our Community College, which is one of the principle vehicles in infrastructure for bringing in jobs to Chatham County, would not be considered part of education. He stated that he was also concerned from an open-government standpoint, that he does not recall a discussion of this by the County Commissioners that the Community College was not going to be included. That seems it should not be a staff decision but a County Commissioner's decision. In closing, he stated that on the issue of speeding up

and streamlining regulations, he would say that there is virtually no empirical evidence that that is going to bring in jobs to Chatham County. But there is overwhelming empirical evidence that our Community College is a principle factor in bringing in jobs to Chatham County.

Commissioner Kost stated that she was surprised that we are looking at a 5% cut in the Community College. She stated that she thought it was this Board's intention that, at the very least, we are going to hold education at the current level.

The County Manager stated that part of the overall budget review would include the Community College. He stated that he does not have a percentage to give at this point as he is uncertain what it would be.

Commissioner Kost reiterated that Mr. Starkweather had said that staff had instructed the Community College to identify a 5% cut. She stated that the discussion at the retreat was to keep education at a minimum the current level.

Chairman Bock stated that he thinks any budget that is presented by the staff is a proposed budget. At that point, the Board can make decision regarding what they do and don't do.

Commissioner Kost stated that is correct, but that they did give guidance to the budget which is why she is asking. Chairman Bock stated that he thought specifically what they gave guidance of what they weren't going to look at reducing was the school's budget. They were speaking to the school's superintendent and talked specifically because of the State's cuts being imposed on the school budget.

The County Manager stated that while they ask, in the case of the Community College, he doesn't recall whether it was 5%, but they gave everyone a max to consider. While it may have been 5% as an instruction piece, it will not necessarily be 5%.

Commissioner Kost stated that, case in point, she has made a request to the Clerk, before we get into the budget discussion, that they must have the retreat minutes as she would refer back to the minutes to see what was actually said.

**Randy Voller**, Democratic Party Chairman, stated that he was speaking on behalf of the Democratic Party. He stated that they are calling for the Board to have a fair and transparent redistricting process which he is sure this Board would like to endorse. He stated that there have been campaign promises made in the past, by not just members of this Board, but previous folks that have run for office and that he feels a representative task force should be set up to provide input on redistricting options for identical school board and County Commissioner districts. These options would include the expansion of the Board of Education, Board of Commissioners, as well as considered district-only or combination of district-only and County-wide voting districts, ideas that have been presented to Boards in the past. He stated that he knows the Board Chairman did campaign on this and he thinks in the past, Chairman Bock has said that he will give consideration for going to district-only voting or mixed system of district-only voting and County-wide voting. He stated that he knows that the Chairman ran on open-government and that he believes in this. He feels that the citizens of Chatham County are owed a fair and transparent process and he believes this Board would get behind it so they are requesting that they do it. He stated that he is coming to the Board because he knows that they have a short timeframe and at one of the previous meetings, they mentioned that they are going to start to work on this so he thinks they should gather the input now and put together the task force to do it. He stated that he thinks a fair task force would include representative from the County's Republican, Democratic, Green and Libertarian Parties, representatives from the League of Women Voters, unaffiliated voters, African-American, and Hispanic Communities should be included. He thinks that citizens from each section of our large County in rough proportion to the 2010 Census, should be included. Democratic and Republican County Commissioners, School Board Members and representatives from municipalities should also be part of the task force. He stated that he knows everyone wants a fair and transparent process. This is what voters from the west have said in the past, what voters from Pittsboro have said, and all over the County. He knows that Republican Party Leaders, supporters of the current Board majority, and virtually everyone who has run for County office in the past few election cycles have confirmed this issue and at some point have stated that they are committed to undertaking this process once the County received its population's figures from 2010. He

believes that at a minimum the Board of Commissioners and School Board should agree to the following set of principles:

- A fair and responsive process that acknowledges public input from all parts of the County and demographic groups
- Open and transparent data timelines, draft maps that are accessible on the internet at public libraries during public meetings and by request, proposed maps, district configurations and district voting messages should be representative of the political, cultural, economic, and geographic diversity of the County

He stated that he feels a similar process was proposed in the past and he believes former County Chair, Sally Kost did propose such a process after getting input from former Republican Candidate, Karl Ernst. He stated that he has information from the County Board and asked if he should submit it to the County Clerk stating that they passed a resolution in December, 2009, stating that they wanted conformed districts. Chairman Bock stated, yes.

**Larry Ballas**, 139 Indian Creek Lane, Apex, NC, stated that he received an email from a local Chatham County organization Chatham Citizens for Effective Communities (CCEC) about the gas that is found under the land in Chatham County going to Lee County. Since we are not ready to drill now for it, we are looking to the future as to what we want to do with it. They presented some data to their email list. In that data, there was an interesting article. The article that reviewed the article stated that it is a study of gas from fracking worse than coal on climate. If you actually look at the article to critically evaluate it, there are pro-fracking people and con-fracking people. If you look at what the pro-fracking people are saying, it needs to be understood as a study (the study that is being published) several key assumptions that are highly uncertain are based on limited data points. He stated that even the authors admit that some of their data that they are presenting may not be correct which he feels is important. If we are going to look to the future as to getting gas out of Chatham County, we have to rely on studies that are going to settle what the science is. Based on the author's own conclusions, the study cautions that the research is not meant to justify continued use of oil and coal, but rather to show that using shale gas as a substitute might not provide the desired checks on global warming. Howarth, a Cornell Engineering Professor, who also worked on the study, acknowledged uncertainties in the nexus between shale gas and global warming in a presentation last month. We do not intend for you to accept what we reported in that article as the definite study with regard to this question, he stated, as it is clearly not, which the author stated. Although you can look at the article and base some conclusions on it, you should not take it as gospel. As we get into the fracking process in Chatham County, we are going to have a debate on this and we are going to have to look at all of the input of the data that is included.

**Miriam "Mimi" Pollard**, 1817 Gade Bryant Road, Moncure, NC, stated that she is proposing a resolution to the Board opposing the State Legislative efforts to shorten early voting. She read the resolution as follows:

#### **Resolution Opposing State Legislative Efforts to Shorten Early Voting**

**WHEREAS**, a bill before the North Carolina General Assembly seeks to shorten (by a week) the early voting period and do away with same-day registration and same-day voting; and

**WHEREAS**, Chatham County voters of all party affiliations have come to rely upon early voting and have enthusiastically responded to the three-week early voting period by voting at all three Early Voting sites (Pittsboro, North Chatham and Siler City); and

**WHEREAS**, during the 2008 general election, approximately 22,000 out of 33,000 total voters, or 66%, were cast at the county's three early voting sites and even during the 2008 primary, approximately 57% of the votes were cast at early voting sites; and

**WHEREAS**, during the 2010 non-presidential, non-gubernatorial general election, 11,697 voters were cast at early voting sites compared to the total of 24,743 votes; and

**WHEREAS**, because, approximately 60% of workers commute out of Chatham County every weekday for employment, early voting has provided a convenient method to dramatically increase voting among those residents; and

**WHEREAS**, early voting allows residents who travel frequently in their jobs or others wanting to avoid missing Election Day due to an emergency to be assured they can vote; and

**WHEREAS**, same day registration assisted in allowing college students and young people to register and vote for the first time in 2008, greatly helping turnout and promoting increased civic participation for our future leaders; and

**WHEREAS**, early voters allows the Board of Elections staff the time to resolve difficult questions about registration and residency during the early voting period without having to deal with these issues on a hectic election day when they are understaffed and overburdened with other complicated and contested issues; and

**WHEREAS**, allowing voting to spread out over this early voting period helps prevent partisan conflict and potential violence outside the polling stations on Election Day; and

**WHEREAS**, early voting helps eliminate long lines on Election Day and prevents the possibility that such lines will discourage would be voters; and

**WHEREAS**, both Chatham County Democratic and Republican Parties have benefitted by utilizing Early Voting to increase their voter turnout; and

**WHEREAS**, Chatham County has seen no evidence of fraud due to early voting or same day registration; and

**WHEREAS**, encouraging expanded voter participation in an efficient and effective manner such as early voting and same day registration provides should be a high priority of state and county government.

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Chatham County Commissioners urges the leadership of the North Carolina General Assembly not to approve any legislation that would reduce each county's ability to decide for themselves whether to conduct early voting for the full three weeks currently available or less, decide the number, hours of operation and location of early voting sites it will utilize during any primary or general elections, or limit the availability of same day registration.

Ms. Pollard stated that this resolution unfairly causes difficulties in families who are stretched with gas, time, and budgets as there are lots of single parent families who work two jobs. Indirectly, it disenfranchises the poor and also those who commute outside of town. She stated that she would appreciate the Board accepting this resolution on her behalf.

Commissioner Kost asked when this was going to be taken up by the General Assembly. Ms. Pollard stated that she was unsure, but that it was submitted this week with House Bill 20 so it will be soon.

Commissioner Kost stated that it was a timing issue as there is a rule with the Board, that unless the issue is on the printed agenda, unless it is an emergency, there will be no action taken on it. However, she stated that if it was going to be taken up before the Board of Commissioners' meeting, she would like for the Chairman to consider putting it on the night's agenda for a vote as she fully supports the resolution. She stated that Chatham County has one of the highest turn-outs in the State and it is due to early voting when the numbers are considered.

Ms. Pollard stated that she would do the research and let the Clerk know.

Commissioner Kost asked if the Chairman would consider this item.

Chairman Bock stated that he didn't have a problem putting it on the agenda, but stated that he opposes the resolution. He stated that he had never seen any evidence that three weeks would disenfranchise people anymore than two weeks would. He stated that he is actually surprised that the Legislature isn't proposing doing away with early voting altogether. The fact that they are saying one week, he is uncertain how that would make a big difference to either side. He stated that when you talk about the same day registrations, etc., it opens us up to more

fraud. More people may vote, but same day registration has been proven to have more fraud. So if it is voted on tonight, his vote would have to be no.

Ms. Pollard stated that today she decided to help a friend and teach in a horrible school. The kids are sweet but they come from really bad homes. When she was leaving school, she was trying to explain to a parent about her child being verbally sexually assaulted by some students, and the mother couldn't hear it because she stated that her car was down the street, out-of-gas, and she had no money. Ms. Pollard stated that the issue here is that poor people need to plan when they spend money, purchase gas, etc. Gas may be approaching \$5.00 per gallon which may not be an issue for some, but is for people who have failed their family planning and have too many kids. She stated that she feels it is up to the government to help these people in terms of getting to work and care for their families as well as civic participation. She stated that she appreciates the Board's opinion but did want to submit the issue to them stating that it is real for people who commute, out-of-town, and gas is a serious issue for people who are on minimum wage.

Chairman Bock stated that he understands. However, he stated that he doesn't see that shortening the voting period by one week would help. The Constitution states when election day is and doesn't mention a three-week election day. There are exceptions for absentee balloting, but that he cannot support it.

Commissioner Kost stated that the issue is that the former Board of Commissioners before the former Board, together with the Board of Elections, consolidated some of our precincts (Mann's Chapel Precinct, Pittsboro Precinct) and made mega precincts. If we didn't have early voting, we would have long lines. People would come to vote, see the long line, and they would leave. She stated that she had looked at the data on a day-to-day basis and knows that the three weeks early voting has been very successful in Chatham County, and she feels that we should be doing everything we can to encourage people to vote. She stated that she would support the resolution.

Commissioner Cross stated that he thinks our system works quite well and he would support the resolution.

Commissioner Stewart stated that not having seen the data on this, she has questions. What is the cost of the three versus two weeks? What are we trying to accomplish? Is it a financial savings? What is the issue here? Why do we want to reduce it?

Ms. Pollard stated that she didn't have an opportunity to do the research on it. However, she stated, that she thinks it is the climate of the Legislature. It is more about sequestering a certain class of voter. It is that poorer people have more emergencies because their lives are full of calamity because they are trying to live in a condition that is difficult for them. She stated that she is not asking that they give more. She is asking that we keep what we have to preserve what we have. We had a great deal of youth participating and they want to feel the spirit of voting in their home election place. She stated that she feels that we should, as often as we can, offer opportunities for people to participate in our good government. We have a very low 3% fraud voting. Fraud voting is not a problem in North Carolina and is not a problem in the United States.

Commissioner Petty stated that he would prefer to not take action on this item tonight. He stated that he was traditionally an election day voter because it seems like the thing to do as that is the way it was founded. He stated that he understands that early voting is convenient for some, but he would prefer to see what percentage of voters came out and what the one week would do to us. He stated that if they were forced to vote on it tonight, he would most likely vote against it.

Commissioner Kost requested that this item be placed on the May 16<sup>th</sup> Board of Commissioners' agenda.

Chairman Bock asked about placing in on the June 6<sup>th</sup> Board of Commissioners' meeting.

Commissioner Kost stated that she is concerned about the timing at this point.

Chairman Bock stated that if it was or was not passed, it would not have an impact on the Legislature stating they were not going to listen to this. He stated that he would like for it to be placed on the website and that he would like for it to be placed on the June 6<sup>th</sup> agenda.

Commissioner Kost commented that the Chairman sets the agenda, and if he doesn't want to place it on the May 16<sup>th</sup> agenda, as the Chairman it is his prerogative to put it on the June 6<sup>th</sup> meeting. She stated that out of respect for Commissioner Stewart who wanted more information, she would not ask that it be placed on the night's agenda.

### **COMMISSIONERS' PRIORITIES**

#### **Employee of the Month: Presentation of the May Employee of the Month**

Carolyn Miller, Human Resources Director, stated that the Employee of the Month program was instituted in FY 2009 to honor Chatham County employees for exemplary service to citizens and their fellow employees. She explained that the May 2011 Employee of the Month is Hope Tally, Accounting Technician IV, of the Finance Department, who has been with Chatham County for nearly ten years. An excerpt from her nomination form follows:

#### **Reason for Nomination:**

"This year, and actually the past two years, Hope has been a great help to me during budget time. She has done this with a great attitude and not with an attitude of "let's get this over with."

#### **In what way does this employee demonstrate Employee of the Month criteria?**

Hope has a great attitude not only toward her job and job duties, but toward her co-workers as well. She has always been willing to help no matter how small or big the request has been. She has taken the time to research or tell me how to get the information that I am looking for. I know that there are times she is very busy, but has been willing to stop and help me with the task that I am doing. I believe that Hope is committed to not only achieving high standards for the Finance Department, but for everyone associated with Chatham County."

Chairman Bock congratulated Ms. Tally.

**Watershed Review Board:** Discussion and action to return this function to the Chatham County Planning Board where it originally was assigned

Chairman Bock explained that the purpose of this discussion is the possibility of returning the duties of the Watershed Review Board to the Planning Board as it was done in the past. Currently, the Environmental Review Board serves as the Watershed Review Board.

Elaine Chiosso, Environmental Review Board Co-Chair, thanked the Board for the opportunity to speak on this subject. She stated that the Environmental Review Board went through a lengthy process of revising the Watershed Review Ordinance for Chatham County and are extremely familiar with all parts it. They worked with the County Attorney and other consultants while the work was going on and used the State model ordinance to make sure the Watershed Review Board was in compliance. She stated that she thinks the past Board of Commissioners that made this decision felt that there were two main reasons to change it from the Planning Board to the Watershed Review Board: 1) The Watershed Review Board has more expertise on the subject that is involved in the Watershed Review Ordinance. 2) The Planning Board is overburdened with tasks already. After it was moved to the Environmental Review Board, they had one case before them which took a fair amount of preparation to understand and read through all the documents that were involved. There were a lot of technical questions that had to do with science and water quality. She stated that she thinks it is the right board to be looking at this issue rather than the Planning Board.

Commissioner Stewart asked if the previous Watershed Ordinance was out-of-compliance.

Ms. Chiosso explained that there were changes that had to be made. There had been several State changes for the model Watershed Ordinance with which all local governments had



to comply. Those had to be addressed in Chatham County if we were to stay in compliance with the State.

Chairman Bock stated that it was probably the right move to move the Watershed Review Board to the Environmental Review Board when they did as they needed the expertise to bring everything in line and review the ordinances. Now that that is done, he wonders if that same level of expertise is necessary or if the Planning Board could now do that and basically you are looking at, did they follow the rules, are they in compliance of these ordinances and regulations. He stated that he appreciated the work that was done and he can see why it was moved to the Environmental Review Board, but he wonders if it still needs to be there.

Ms. Chiosso stated that she thinks with all variance requests and appeals, there will be room for interpretation. It will be scientific and technical interpretation on a higher level, riparian buffer rules go to the Environmental Management Commission. It is important that the people reviewing these requests have an understanding of all the issues that surround water quality, etc. If you review the minutes of the one case they undertook, it was extremely interesting and went on for quite a long time. It was not an open and shut case.

Chairman Bock asked the date of the case. Ms. Chiosso replied July 8, 2010.

Commissioner Cross stated that there was a third element when this was done stating that the economy was better then and the Planning Board was quite busy. He stated that that they hope that the economy gets busy again. The Planning Board, when we have a lot of applications coming in, does get very busy which adds a tremendous extra burden on them. Most of them would admit that they do not have the expertise to do what we needed to do. We have all the highly trained volunteers and he thinks that they should appreciate that they are willing to help us and keep them helping us.

Ms. Chiosso stated that they spent quite a bit of time in a class learning how a Watershed Review Board operates. It is a quasi-judicial process so there are a lot of rules and regulations, of which you are aware, when you take on the hat of quasi-judicial instead of being just a regular board. She stated that Mr. Rose was their mentor on that. It took quite a bit of time to make sure that everyone understood everything about that. If it is transferred, there will be another group of people that have to go through the same training.

Commissioner Petty asked if that board then not work as the other boards and other committees that we have that act more in an advisory capacity and bring that information to the different departments to implement. Ms. Chiosso replied not in that particular case. When an appeal is being made and a staff person has already made a decision, if the person that brought the request forward doesn't like the staff's decision, they then go to an appeal process which is, in the State of North Carolina, the Watershed Review Board. Where you put your Watershed Review Board, you can decide, but there has to be one.

Commissioner Kost stated that Carolyn Sieverson and she served on the Planning Board and both served on the Watershed Review Board. The several cases that they did review, she stated, she didn't feel like she had the background as it was a different background that is required from a planning perspective. She stated that she thought it made perfect sense to move it to the Environmental Review Board and it does not make sense to move it back to the Planning Board as they have the expertise on the Environmental Review Board to review these cases.

Commissioner Stewart asked if the members of the Environmental Review Board change. Ms. Chiosso stated that of the original ten in 2007, three went off the board for personal reasons and were replaced in that time.

Commissioner Kost stated that happens with the Planning Board as well.

Chairman Bock asked if an entirely new board would have to be trained in the procedure that the current board is very familiar with stating that that is only as long as the current people are on that board, it's not the board that is necessarily familiar but the people that are on the board.

Ms. Chiosso stated that she feels that when you have a majority that understands the rules and regulations, you usually are expected to learn what you need to know and you can ask

the chair or staff what you need to know, but usually you are not given an entire process like a workshop.

Commissioner Kost stated that she would be interested in hearing from the other members as to the advantages of doing this.

Chairman Bock stated that will be forthcoming during Item #8. Commissioner Kost stated that she didn't understand.

Chairman Bock stated that Item #8 is a discussion of the Environmental Review Board in general; that he put this on the agenda; and that he is hoping to have some discussion as to the original purpose of the Environmental Review Board, what they are currently doing, if, after codifying in the work they have done, if that now can be done by staff; and that he is talking efficiency, streamlining, and if they can have one less board with which staff is spending their time and the decisions can be made by staff or by the Planning Board, then that is something he would like to explore. He stated that if they move the Watershed Review Board, it opens up that discussion. We could create a whole new Watershed Review Board, or rename the Environmental Review Board the Watershed Review Board, or whatever they want to do, but the idea tonight is to get some discussion going.

Commissioner Kost asked if he was thinking that the Environmental Review Board would go away and so that is why this would be moved to the Planning Board. Chairman Bock stated that that was a possibility.

Commissioner Petty asked if that changed anything that had been implemented. Commissioner Kost stated that she hoped this didn't get implemented.

Chairman Bock stated that since we were talking about a text amendment to an ordinance on the Watershed Review Board, we need to refer this item to the Watershed Review Board.

Jep Rose, County Attorney, stated that it would need to be done by a motion.

Chairman Bock stated that it was a text amendment to an ordinance so a public hearing would be scheduled on that text amendment. He asked for a motion to refer this item back to the Environmental Review Board for their comments.

Commissioner Cross moved to refer the Watershed Review Board to the Environmental Review Board for comments.

**NOTE:** For the record, the following account is per Ms. Allden's recollection on May 06, 2011. The audio recording of said account was inaudible.

Tara Disy Allden, co-chair of Environmental Review Board, asked the County Attorney whether or not it is correct that an amendment to or variance from the Watershed Protection Ordinance must be approved by (in the case of an amendment) or appealed to (in the case of a variance) the State Environmental Management Commission. Mr. Rose replied that was correct, as this is an ordinance amendment, it would go to the Watershed Review Board for review and comments. The Board will then have 45 days in which to comment. He stated that assuming the Board of Commissioners adopts the amendment, the ordinance as amended, would go to the State.

Ms. Chiosso replied that it didn't sound like "efficiency" to her, but she could be missing something. Chairman Bock agreed stating that was a State rule and an ordinance.

Commissioner Petty seconded the motion.

Chairman Bock called the question. The motion carried four (4) to one (1) with Commissioner Kost opposing.

Commissioner Kost explained that the reason she voted no is that she doesn't think this should be pursued any further than this discussion, as she thinks it is not a good idea to get rid of the Environmental Review Board and it is not a good idea to move the Watershed Review Board to the Planning Board.

Chairman Bock asked if the public hearing could be scheduled on this matter for the May 16<sup>th</sup> Board of Commissioners' meeting.

Ms. Chiosso stated that they would meet on May 19<sup>th</sup> at the Environmental Review Board and could review it as the Watershed Review Board then.

Mr. Rose stated that they did not have to take it up at that time.

Chairman Bock stated that it would not be voted on at the public hearing on May 16<sup>th</sup>.

Mr. Rose stated that was correct unless they happened to have a recommendation to do so.

Chairman Bock stated that there would be no intention to vote on it the same night as the public hearing. He stated that the Board would be going through this with each committee and talking about why they are there, how they can help, what they need to be doing, their objectives, if they can be merged with another board, and if they are needed and if they need to be expanded. He explained that this is not an Environmental Review Board specific topic, as it will be ongoing for the foreseeable future with the various boards and committees.

Commissioner Kost stated that there were three items on the Agenda for which there were no abstracts with backgrounds. The citizens were confused about what the Board was doing. The usual way to do business is to include background information, more clear direction on the agenda, and as we do more of these, she hopes we could have earlier communication. She stated that she had talked with Ms. Chiosso, and due to the amount of preparation needed, it would have been nice to have had preparation ahead of time in the agenda item. She stated that she feels they owe Ms. Chiosso an apology for not letting her know this is coming up. She stated that in the future, she feels that they need to do a better job of their advisory boards and providing their expectations and perhaps have something ahead of time.

Chairman Bock stated that people are confused about what the Board is doing tonight because of an email that was sent. Discussion and possible action on the Chatham County Environmental Review Board means just that. We are going to discuss it. We are not going to vote them out of existence and we are not going to vote to keep them in existence. We are taking public input before any vote is taken. An email was widely circulated that clearly said no public input would be taken. That is false and was an irresponsible email to put out. He stated that the Board would like public input, but he feels that as the Board of Commissioners, they can speak about a topic and discuss it among themselves when they choose to do so.

Commissioner Kost stated that she could not prepare for this because she did not know what it was. One line saying that they are going to discuss the Environmental Review Board is not adequate and is not open government. We should have an agenda item with background information on each and every thing that is on the agenda. Preparing for the meeting was extremely difficult and she thinks that they needed more information.

Chairman Bock asked if the Environmental Review Board was prepared to discuss the Environmental Review Board stating that he would think that after being on the Environmental Review Board for four years, the chair and vice-chair could tell them what they do and how they came into formation. He stated that he didn't know that that required weeks of preparation. If it does, he stated that he could put it off for a couple of weeks and it can be discussed then. This is simply a discussion and he is willing to move it to the next agenda. He stated that he finds it odd if the members of the Environmental Review Board cannot discuss it.

Commissioner Kost stated that at the Board of Commissioners' Retreat, a report format was outlined as to what they wanted to hear. She stated that she does not see that communicated.

Chairman Bock stated that it would be discussed at the next meeting.

Ms. Chiosso stated that she was prepared to speak tonight as she had spent several hours putting this together. She stated that they had had fifty meetings plus subcommittee meetings in the past four years. She stated that she really had to go back and look at what they did and she was amazed at how much they have done. Those who have been following the Environmental Review Board understand that. There are people who came to listen and since there will be a

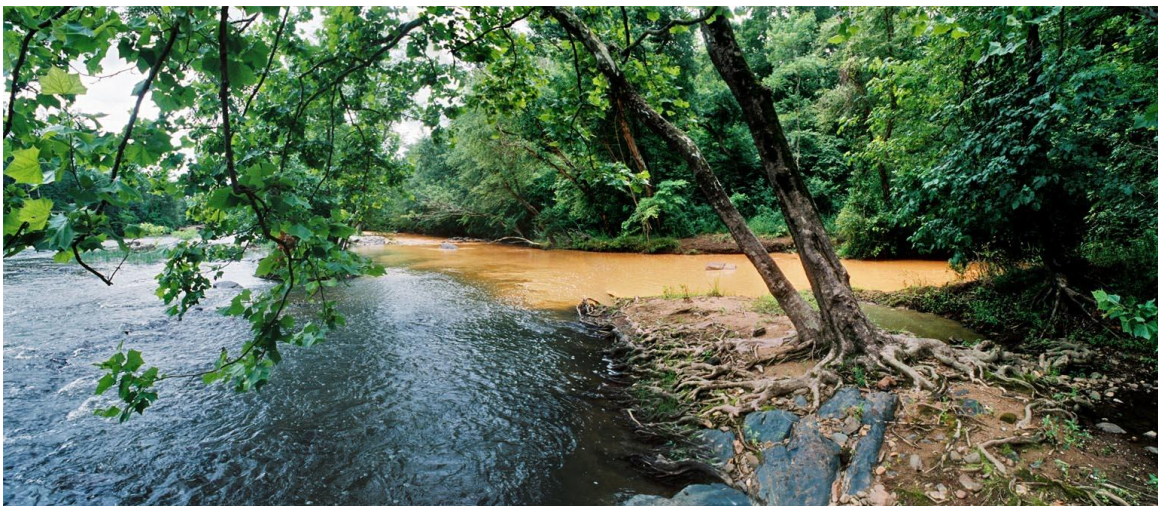
public input session, this will perhaps give people a little more information to think about it. She further stated that she would have appreciated at least a week's notice as this came at a very busy weekend.

Chairman Bock stated that it is a good point in that it is better to have input after people know what they are talking about.

**Environmental Review Board:** Discussion and possible action of the Chatham County Environmental Review Board

Elaine Chiosso presented her comments to the Board and provided them in their entirety for the record as follows:

### **Summary of Chatham County Environmental Review Board Accomplishments 2007-2010**



“The photo you see above was taken on July 8, 2005 by Chatham resident Jerry Markatos. It shows Dry Creek, filled with brown mud, flowing into the Haw River. The photo was taken after months of protest by downstream neighbors concerning muddy waters in the creek from the construction of the Chapel Ridge golf course and development. Many of us vowed to make sure nothing like this ever happens in Chatham again. Clearly, the State laws, and ability to enforce them were not enough. We needed local ordinances to better protect our county.

The Environmental Review Board was created by the Chatham County Board of Commissioners and held its first meeting in March of 2007. We immediately went to work on the mission given it by the Board of Commissioners to strengthen environmental protections for Chatham County and to provide advice on important and emerging issues. The accomplishments of this Board are summarized below. The Environmental Review Board's members represent many facets of professional environmental expertise and have given hundreds of hours of valuable time in these 4 years of service. This has been an amazing resource for the county, and many protections are now in place including stream buffer rules, sedimentation erosion controls and requirements for thorough environmental information when developments are proposed. Advice to the Board of Commissioners was given on many issues they requested information for including:

- Shearon Harris Nuclear Licensing Renewal
- Jordan Lake Nutrient Rules
- Burlington WWTP Sludge Application Permit Renewal
- The Joint Chatham Cary Comprehensive Plan
- Amendments to the Watershed Protection Ordinance
- Draft Comments on NCDOT's Hwy 64 Corridor Study
- Army Corps of Engineers Jordan Lake Master Plan
- Western Wake Partnership WWTP
- Durham County changes to the Jordan Lake normal pool elevation boundary

Once ordinances were established for environmental assessments, the Environmental Review Board began performing reviews and peer reviews of development proposals helping create

projects that had a more environmentally friendly footprint on the land, keeping houses and roads off the most significant and fragile areas. Using subcommittees and numerous meetings the Environmental Review Board did reviews of at least 9 private developments and new county parks.

The Environmental Review Board was also charged with drafting revisions for the Board of Commissioners for the Watershed Review Board, charging the Environmental Review Board to take on these reviews of watershed ordinance decisions (first hearing by Watershed Review Board on July 8, 2010). The Environmental Review Board provided expertise on creation of the Environmental Assessment Standards and Review, the Stormwater Ordinance, Conservation Subdivision language and revisions to strengthen the Sedimentation and Erosion Control Ordinance.

The Environmental Review Board also took on special issues of concern, raised by its members or brought forward by Chatham County citizens, to bring to the attention of the Board of Commissioners. These included discussions with the Army Corps of Engineers and Division of Water Quality on stream delineation and 404-4-01 permit monitoring, and a field trip to Briar Chapel to view permit violation mitigation work. The Environmental Review Board discussed concerns about the health of the Rocky River; and about the coal ash ponds adjacent to the river at the Cape Fear Coal Plant in Chatham. A Climate Change subcommittee was established to look at local impacts, mitigation and carbon reductions. Significant work on the issue of application of waste water treatment plant sludge in Chatham County included permitted sites, maps and general information for the public to be posted on the county website.

The Environmental Review Board took an active interest in the possible landfill siting process with a concern for environmental, and environmental justice impacts. Most recently, the Environmental Review Board has been discussing the issue of hydro-fracking for natural gas in the Triassic Basin in Chatham, particularly near the Deep River, and heard presentations on this subject about possibly “predatory” mineral leases being bought up by gas companies and the concerns for groundwater pollution.

This work has been accomplished in just four years by dedicated and professional Chatham County volunteers. The work is not finished, and as the economy recovers, there will be much more to do. New issues of concern need our attention including sludge application, attacks on the Jordan Lake rules, mitigation banking, fracking and the continuing needs for saving Chatham’s most precious natural resources. These issues need continued diligence and attention by people who have expertise on these subjects to share and advise the Board of Commissioners.

However, if the current Board of Commissioners are not interested in hearing this expertise and do not wish to seek advice on these important environmental issues that are of grave concern to residents of Chatham County, then you should not have an Environmental Review Board. It would be a waste of these members very valuable time to be giving unwanted and unheeded advice. As former members of the Environmental Review Board we will be more active in our efforts to protect the environment of Chatham County as private citizens and professionals, than as a Board silenced by new county policies.

I believe the majority of people in Chatham County want a strong Environmental Review Board that is free to give the best scientific advice they can to protect our environment, our waters and our health. We urge you to hold a public hearing on this issue in order to listen to these concerns.”

Sincerely,

Elaine Chiosso,  
Environmental Review Board Co-Chair:

Commissioner Petty asked about mineral rights. Ms. Chiosso stated that people are selling their mineral rights now to the natural gas companies. More of that is happening in Lee County, but there are some who have been selling in Chatham County. The guy from RAFFI (an agricultural policy group) got interested in this because when you lose your mineral rights to your land, you can lose a lot of other rights along with it. The fine print of some of these leases that they are signing might say that in fine print you have to supply the water for the fracking (super high intensity injection of water, chemicals, and sand). One well takes a million gallons

of water and it might get fracked ten to twenty times. The big question is, "Where is the water coming from?" And after the fracking, the water is contaminated.

Commissioner Petty asked if the water issue was more what Ms. Chiosso was concerned with than the mineral rights. Ms. Chiosso replied, both. For the Environmental Review Board, if they continue to look at this, they would be looking more at the environmental issues, but they were concerned to hear that there may be predatory leases.

Commissioner Cross stated that while in Sanford this morning, he had heard that there have been some \$400-700 checks mailed to residents of Sanford that own property. The fine print is that if the check is cashed, then they are partners. There are a lot of people in Sanford now that are hurting due to losing everything they had in the tornado. That is the worst kind of predatory to send someone a check they can cash and then show them the fine print when it is over.

Chairman Bock asked how the Environmental Review Board would stop that.

Ms. Chiosso stated that their intention as the Environmental Review Board was to look into this issue and provide advice stating that they didn't stop anything. The point of the Environmental Review Board is to research things, draft things, to find out what they can and then give that advice in as succinct a way as possible to the Board of Commissioners so they can act on it. She stated that they had never acted on anything without permission from the Commissioners.

Commissioner Kost added that when she was the chair of the Planning Board, she attended all of the Environmental Review Board meetings for a year. The level of technical expertise on that board was incredible. She feels that they should be expanding the board and putting more resources into it because they are getting a real bargain in getting all the expertise for literally nothing as volunteers. She stated that she remembered when they gave the Environmental Review Board the binder on the nuclear power assessment. The Commissioners received a dirty look, but the Environmental Review Board went through the technical report and provided lots of information for the Board of Commissioners. She thanked all of the members of the Environmental Review Board for what they have done over the last four years because she thinks it is incredibly valuable.

Chairman Bock asked if they passed the changes to the Subdivision Ordinance as they have been discussing and make the environmental assessments and peer reviews and we don't have the process include the Environmental Review Board, what then would their role be.

Ms. Chiosso stated that she felt that was a mistake. They found from the consultants' reviews, there was a lot of boiler-plate stuff. They would spend the time with the consultants to ask a lot of questions. They very often found errors that they would correct. They might have to go back into the field or the office and find out the right answers but definitely they were looking at environmental assessments that needed another layer of impartial citizen review, to make sure that they were getting information they wanted. It was a good system in that they couldn't expect volunteers to be going out and looking to see if there were boots on the ground, any old graveyards, the biggest trees, etc. which is clearly a good job for a consultant. When they return with the information, the Environmental Review Board can look at it to make sure it is thorough, see if they have left things out, and see if there are mistakes. When they are telling you that they are not worried about there being an endangered species that doesn't even live in North Carolina, then you have to question what else they are telling you. Those are the kinds of things that you look for, accuracy and thoroughness.

Commissioner Stewart asked if the consultants return to the Environmental Review Board and not County employees.

Ms. Chiosso explained that the County employee is part of the process but they were serving as the peer review of the consultants and giving an opinion on that. Nothing they do, she stated, was ever final, except for the Watershed Review Board. It is always just giving opinions, giving advice, taking the best knowledge they have, and letting staff and other boards use it. They often did things, through a lateral movement, where other boards were looking at things they did, they were looking at things other boards did which was very useful. As in the parks, it was a balance between saving natural areas and having as many recreational fields, but



they wanted to make sure that the recreational fields were in the best place for them and the Parks and Recreation folks didn't know what that might mean.

Commissioner Stewart asked that without the Environmental Review Board in the process, if that would happen at all and to what degree is it provided. Ms. Chiosso replied, not to that degree. She stated that there would have to be a lot more people hired and there is no biologist on staff. There is an engineer, but that is a very different training and intent.

Commissioner Petty asked, along those lines, would they be able to serve on "as needed" basis. Chairman Bock interjected as a task force basis.

Ms. Chiosso replied that she could not answer that question.

Chairman Bock stated that it seems to him that the Environmental Review Board did a ton of work and put in lots of hours. He stated that he does appreciate it and understands that a lot of work went into that. Because of that work, we now have rules, ordinances, and regulations in place. Ms. Chiosso replied that was correct, but they understood there were some that they would like to eliminate.

Chairman Bock stated that they want to look at everything and one thing that bothers him about an advisory board is that when he says, "Let's audit all of our rules and regulations and see if anything needs to be updated or changed, and he gets a stone wall that says they spent a ton of time on that and they can't be changed." He stated that that worries him and to him it is not an advisory board.

Ms. Chiosso stated that she thinks what a lot of citizens see is that they had a grace period in Chatham County. This Environmental Review Board went into place when we were still in the height of our development boom. A lot of things were going wrong. When the economy died, they had a chance to look at all of these regulations and see where they could protect Chatham County but haven't used it to much yet, stating they are ready.

Chairman Bock stated that they are in place. Ms. Chiosso replied, yes as long as they are left in place. Chairman Bock stated that whether they are in place in the future, whether the Environmental Review Board is here or not, if they feel that the Board is not going to listen to their opinion on those rules and regulations, it won't matter if the Environmental Review Board is there. He stated that he thinks the Board would like to have input from folks.

Ms. Chiosso stated that she felt the part was missed where she was talking about there are constant issues coming up in Chatham County that have to do with the environment that they cannot predict. She stated that she doesn't know who could have predicted fracking in Chatham County. It came out of nowhere. The sludge issue is still a very big one on a lot of people's minds and all of these issues that are outside of the County limits but impact, they have no control over. By having monthly meetings, they are there to look at things when they come up. The past Board of Commissioners charged them with things to look at that they might not have thought of, but they are willing to do.

Commissioner Petty stated that Ms. Chiosso mentioned outside sources that come in over which they have no control. He asked what could be done about them.

Ms. Chiosso stated that a lot of them are legally obliged to ask Chatham County what they think. Then you have to provide them comments. With regard to the Nuclear Regulatory Commission, she wonders if they really read what Chatham County had to say. They don't know. Still, they were asked by the federal government to look at that, and a lot of the bullet points, by having input, Chatham County can be a major player. Certainly the Highway 64 Corridor Study, Jordan Lake Master Plan are things that when Chatham County speaks, it has a pretty large voice on issues that will impact it.

Chairman Bock stated that they have done a lot of leg-work with regard to the rules and regulations. As things pop up, he asked why not be more of a task force on an "as needed" basis rather than a monthly meeting. He stated that if they are waiting for the Board of Commissioners to task them on things, some of the things on which they are already working this Board will probably not task them on anytime soon. He stated that he was wondering if it would be a better use of the Environmental Review Board's time if they didn't meet monthly but on as "as needed" basis.

Commissioner Stewart asked about a project basis. She stated that it looks like they have a lot of large projects, so when these things occur, it would be good to have people to go to. Now she feels that they are part of a process looking at something and narrowing the focus, and really coming back with something that the Board of Commissioners needs to address and give specifics on that and have that focus and then returning with those recommendations.

Ms. Chiosso stated that she is not picturing this as being a good solution, but the one thing she would say about it is the sort of idea of "on-call" and special projects is the one advantage for any citizen board is knowing exactly when they are going to meet. All arrangements are made around those third Thursdays and they have been part of their lives for four years. She stated that it was tough for busy people to get together as a group.

Commissioner Stewart asked if they couldn't still meet on a Thursday and meet on a specific thing. Ms. Chiosso replied that then you would be talking about changing the mission of the Environmental Review Board rather than so much the time spent on it. She restated that if one of their missions is providing the peer review of environmental assessments, she thinks it would be a big mistake to lose that. Again, you don't have staff to look at all those issues.

Chairman Bock stated that he thinks all likelihood is that they are going to make those changes that they have been discussing. He said that the question then becomes, what do you feel is the best use of the Environmental Review Board and how could you advise us best.

Ms. Chiosso replied that she was not prepared to answer that. Chairman Bock stated that he would like for her to discuss that with the Environmental Review Board as that is the kind of advice he would like to hear assuming that that process changes. He stated that he thinks it is a pretty good likelihood that it will. They have voted on it a couple of times now on the environmental assessments.

Commissioner Kost questioned if the public hearing had been held on the assessments. Chairman Bock stated that he believed that they had. Ms. Chiosso said that they had one on commercial, further stating that she was talking about the developments.

Commissioner Kost voiced concern that we had made up our minds before the public hearing.

Ms. Chiosso stated that she would complete her comments on something that the public would still like to weigh-in on. She thanked the Board for their time.

**Conservation Easement for Stinking Creek** - Preston group is requesting Chatham County to hold a conservation easement of 43 acres plus or minus on Stinking Creek within the boundaries of Chatham Park Investors. The site is planned as a mitigation bank for future development of the area by the Investors. Investors will assume all site maintenance and other work required by US Corps of Engineers and other regulators.

Chairman Bock explained that Preston Group is requesting that Chatham County hold a conservation easement of 43 (+ -) on Stinking Creek within the boundaries of Chatham Park Investors. The site is planned as a mitigation bank for future development of the area by the Investors. The Investors will assume all site maintenance required the US Army Corps of Engineers (USACE) and other regulators.

Commissioner Kost stated that she wanted to know what we are mitigating for as it was not in any of the materials she saw. She asked if it was future damage or damage that has already occurred.

Robert Zarzecki, Soil and Environmental Consultant out of Raleigh, stated that they had done a lot of work in Chatham County over the years and is very familiar with the County. Currently, they are working with Chatham Park Investors, LLC on the many acres that they own on the southwest side of town that abuts Jordan Lake and the Haw River. Part of Chatham Park Investors, LLC, having that much land, is being able to look at and control some of the environmentally sensitive areas on the site with the understanding that there will be future unavoidable impacts. These will be impacts that would be reviewed by the USACE and by the Environmental Review Board, as long as it is in existence, and would be reviewed as the development plan under the Environmental Review Board and environmental assessments would be done. It is hard to get from one piece of land to another piece of land without a stream



crossing or a wetland crossing. There are a lot of different techniques that can be used for that, but a lot of times it results in having to put in a pipe or some fill in the wetlands and that requires compensatory mitigation. This site is proactive in nature, is part of an overall umbrella mitigation banking program that they are looking into as advised by the USACE to identify several potential sites within this 7,000 acres. It is not solely limited to this 7,000 acres. It can go beyond that and the Chatham Investors Properties; however, it is the first site that they have identified. It is a preservation site only. There is no restoration, creation, or enhancement proposed within the site. It essentially involves a conservation area around Stinking Creek which is a lot better quality than the name suggests. The Mitigation Site currently encompasses approximately 3,457 linear feet of Stinking Creek and 2,878 linear feet of unnamed tributary streams to Stinking Creek. Land uses in the vicinity of these wetlands and streams include USACE public lands, wildlife corridors, residential, unmanaged forests and adjacent connectivity to Jordan Lake. Protection of the Mitigation Site resources will be accomplished through a conservation easement. This protection will promote the sustainability or improvement of aquatic resources in the Stinking Creek watershed and the downstream Jordan Lake water supply reservoir, a watershed under increasing pressure from development. Further, the watershed is currently underrepresented by private mitigation banks. Wetland and stream functions currently provided include flood attenuation, slow release of water to maintain stream base flow, removal of watershed pathogens, a sink for particulate and soluble matter (including nutrients), aquatic and riparian habitat, and landscape-scale wildlife travel corridors.

Mr. Zarzecki explained that the conservation easement is an agreement between three parties. It is with the sponsor of the bank (Chatham Park Investors, LLC), the grantee (whoever will be holding that easement), and the US Army Corps of Engineers (USACE) and states that you will not do certain things on that land. In this case, it means you can't do anything on the land as it is left in its current state. There are allowances for doing passive, wildlife programs. No trails could be constructed through the area, no development, no cutting of trees, no harvesting of timber, etc. As far as the buffering of the streams, it would essentially result in a minimum of 100 ft. buffers on all streams within the development. Average is closer to 150 feet and over 200 feet for Stinking Creek itself. The holder's liability is essentially none in this case. All enforcement of it goes to the USACE as they are the responsible party to enforce it. Any responsibility with the County would be, if there is an identified activity that is not consistent with the conservation easement, a letter is written to the sponsor (Chatham Park Investors, LLC) and then that letter is sent to the USACE as well. The USACE reviews it and determines whether or not it is consistent with the conservation easement or if any actions need to be taken. If for some reason the County was to fail in its responsibilities of holding the conservation easement, which would be determined by the USACE, then it goes to a new holder of that easement. There are benefits for the County holding the conservation easement. One of them is the location of this particular site would fall between Chatham Park Investors, LLC Properties and other County residents. There is a subdivision there, Chestnut Crossing Subdivision, and would be a buffer to the subdivision. It would also hold a real property interest in it with potential proceeds resulting in the County holding an interest.

Mr. Zarzecki stated that Chatham Park Investors, LLC is respectively asking that the County and the Board approve the holding of the conservation easement.

Commissioner Kost stated that recently the *News & Observer* ran a series of mitigations with the Clean Water Management Trust Fund. They were making the argument that they are allowing mitigation with damages one place and the mitigation at another place and they are not matching up with what the damage is. She stated that her first reaction would be that this is kind of the same thing. She asked for clarification.

Mr. Zarzecki stated that he thinks it is just the opposite. In the first meeting they had with the USACE was that they had a large tract of land that they were managing and holding. They have a lot of options on that tract of land. The 2008 Mitigation Guidance documents came down from the federal government and said that you have to go to a private banker first before you can consider mitigation which is mitigation you can do on site. This would allow Chatham Park Investors, LLC, for example, or the County or any other locale within this watershed, to purchase credits into a bank that is going to help preserve Stinking Creek. It would be used for activities within this watershed.

Commissioner Petty asked Mr. Zarzecki to run through the list of parties again. Mr. Zarzecki listed the US Army Corps of Engineers as the lead agency on mitigation banks, a host of other agencies that form a group called the Interagency Review Team (IRT). The IRT would

have to approve Chatham County as being the holder of this easement. The USACE would be the lead agency in advising the IRT and accepting the approval.

Mr. Zarzecki stated that the first step is does the County want to hold this easement. And then they would present it to the USACE. He stated that he had already had conversations with the USACE and a couple of the IRT members and they would be in favor of this stating that the County would be an eligible party to do so.

Commissioner Petty asked why we would not want to hold it.

Commissioner Kost stated that much of the land held by Chatham Park Investors, LLC is in the Town of Pittsboro's ETJ. She asked how that plays into this and if this parcel in Pittsboro's ETJ or the County. She stated that much of the land in the holdings of the 8,000 acres is in the ETJ, and asked if that was correct. She stated that she was trying to determine if we needed to have a discussion with Pittsboro, as well.

Mr. Zarzecki stated that it was basically the land is currently within the County's jurisdiction.

Commissioner Kost asked if the County holds the easement if it comes off the tax rolls? She reiterated that she would like to have the Environmental Review Board's opinion on this before we take action.

Chairman Bock explained that what we are talking about is who holds the deed to the easement. Mr. Zarzecki corrected him by stating it is who holds the conservation easement itself. Chairman Bock stated it was not what work that was going to be done on the easement, not what is allowed to be done on the easement, it is who holds the easement.

Commissioner Kost asked if it wasn't that this was the best solution for this and if it's not part of the equation.

Chairman Bock asked if they were required to have the easement.

Mr. Zarzecki stated that they were required to have a conservation easement on the property.

Commissioner Petty stated that he thought it ought to be Chatham County.

Chairman Bock stated that it could be Chatham County or someone like the land conservancies. He asked if there was a reason that they would want the County instead of one of those entities.

Mr. Zarzecki responded that it had to meet the IRT requirements. Triangle Land Conservancy would be the one for this reason and they could hold it as well. Quite frankly, this is a little too small a site for them stating that it was 43 acres and they like to look at larger sites. He stated that they did approach Triangle Land Conservancy on it and it was too small for them.

Commissioner Kost asked if the mitigation plan was up for discussion and if the USACE had already signed off on it that it was the best thing to do or does the County have any say in it.

Mr. Zarzecki stated that they would be glad to hear any comments that the County would have on it.

Commissioner Kost explained that was why she was asking for the opinion of the Environmental Review Board.

Mr. Zarzecki explained that it had gone out to public notice for comments and that they have received comments from several different agencies on it. He stated that they have the IRT which is made up of the Division of Water Quality, Wildlife Resources Commission, Fish and Wildlife Service, etc which are involved with this and have reviewed it.

Commissioner Kost stated that she would like to have our local experts look at it.

Chairman Bock stated that with this discussion, we are simply talking about holding the easement.

Commissioner Kost stated that it was a bigger issue.

Chairman Bock stated that it is not a bigger issue. The issue is who is going to hold the easement if there is an easement. Mr. Zarzecki confirmed that this was correct.

Mr. Rose stated that it is basically a form easement. He stated that he thought the Board was the one to hold it. There are some provisions in it that says that while the US Army Corps of Engineers will enforce it, there are some provisions that say that the grantee will enforce it or at least the County has the power to enforce it. He stated that needed to be clarified in the document. If we could see the final form with the names plugged in, it may be that it needs to be clarified, as he doesn't think that the County wants to get in a position to enforce the requirements. We want to make sure that only the USACE would do that and there would be no obligation for the County.

Mr. Zarzecki stated that it would be fairly simple. Basically the US Army Corps of Engineers requires any changes to go through their council in the Wilmington District Office.

Commissioner Petty moved, seconded by Commissioner Stewart, for Chatham County to hold the conservation easement of 43 acres (plus or minus) on Stinking Creek within the boundaries of Chatham Park Investors, LLC.

Commissioner Kost reiterated that she felt it was bigger than just who holds the easement but she is unsure whether this is the best mitigation plan stating as they have said, they have already gone out for public comments and she would like to have our Environmental Review Board look at it. She stated that she will be voting no although she would support the County holding the easement if that's the best thing, but she is not convinced it is not still open.

Commissioner Cross stated that he was not sure why the Board was not taking the County Attorney's advice and getting the form plugged in before they approve it stating that they don't have any responsibility for oversight of it.

The County Manager asked if the Board wanted staff to pursue that end of it even though it may take a little more time to the Corps. He stated that it is the staff's position that if the County is going to hold it, let's hold it, but as a staff member, he is not interested in enforcing it.

Phillip Culpepper, Chatham Park Investors, LLC, stated that it would perhaps be appropriate with the County Attorney's review of it and they could have their legal council, the Board of Commissioners could approve the holding of the conservation easement conditioned on the Attorney agreeing and finally signing off on it to the County Manager and the County Attorney's satisfaction so that their legal council can meet with the County Attorney to resolve any issues and they can put to rest the fact that County will be the holder of the easement. They can then move forward with any issues the Board has./

Commissioner Petty modified his motion for Chatham County to hold the conservation easement of 43 acres (plus or minus) on Stinking Creek within the boundaries of Chatham Park Investors, LLC. pending the approval of the County Attorney and allow him to work out details with the Chatham Park Investors Attorney. Commissioner Stewart seconded the motion

Chairman Bock called the question The motion carried four (4) to one (1) with Commissioner Kost opposing.

### **MANAGER' S REPORTS**

The County Manager reported on the following:

#### **Amendment to the Zoning Ordinance:**

The County Attorney stated that he believed the Board had asked Jason Sullivan, Planning Director, to prepare an amendment to the Zoning Ordinance with respect to the

Environmental Review Board. He stated that a public hearing would need to be called on the amendment to Zoning Ordinance and then refer it to the Planning Board.

By consensus, the Board set June 6, 2011 as the date on which to hold a public hearing on the amendment to the Zoning Ordinance.

**Capital Projects:**

The Capital Projects work is ongoing. The three historic houses are elevated and ready for movement which will take place on Thursday morning, May 5, 2011.

**Judicial Center Ground Breaking:**

The ground breaking for the new Judicial Center will be held on Thursday, May 5, 2011 at 4:00 PM. A rain date has been set for Thursday, May 12, 2011 at 4:00 PM.

**COMMISSIONERS' REPORTS**

**West Side Water Plant:**

Commissioner Cross asked for verification that Chapel Hill, OWASA, and Carrboro in the last two to three weeks voted to drop out of our water partnership for the west side water plant.

David Hughes, Chatham County Public Works Director, stated that Chapel Hill has voted to consider it, Carrboro has voted to reconsider it also, but OWASA has not. The decision has not been finalized. They are in discussions about what it is really going to look like. In January or February, Chapel Hill had voted to support the partnership and now they are having second thoughts. It will be discussed in the future as Chapel Hill has majority representation on OWASA so they will have to see how it works out. The OWASA Board will have to meet and then they will have to vote on it.

Commissioner Cross stated that he had heard that Chapel Hill voted to drop out last Monday night. Mr. Hughes stated that he saw the headlines and called the director of OWASA right away and they will have to work it out among themselves.

Commissioner Cross stated it would be a shame to start losing partners. Mr. Hughes stated that it was complicated as they have a multi-jurisdictional partnership with different opinions.

**Citizen Committees:**

Commissioner Stewart stated that she wanted to clear up any misunderstanding about the committees. She stated that prior to putting together the policy for their committees, there was a lot of research that was done. They looked at other towns, counties, and municipalities throughout the United States not just in our area. They looked at the wording in their guidelines, how they govern their committees, and their purposes. They consulted with the School of Government in Chapel Hill and she bought the book on setting up citizen committees. They read through it with staff and meshed it together. She stated that there seems to be discussion regarding the statement that the committees serve at the pleasure of the Board of Commissioners stating that this has always been the case. It is not this way just in Chatham County, it is that way throughout. This is not a political issue which may have been misinterpreted by some people. She stated that she wants people to understand what they are trying to do and why it is necessary to set expectations. They want working committees. They want people to be able to come back with results. They have to make sure that they all have the same objectives. This review of the committees is to help them understand how they came to be, what they have been working on, and what they see as their objective and direction as given by the previous Board of Commissioners. This is to help this Board as well as to help them. In going forward, she stated that she would like to see that they have a standard list of questions that they provide to the committees, and that they ask for a report back to them and they would like to have the report before the presentation to the Board. That gives them an opportunity to look at what they are going to present, the information, and they can then form their questions rather than hearing it for the first time and going away and thinking that they didn't understand something or having a later disagreement about something that was/was not said, if they

covered everything, and if everyone got a chance to make their statement. She stated that going forward, she thinks they may need to talk about how to proceed with this, maybe a little more regimented and scheduled ahead of time, letting people know the month they will be presenting.

Commissioner Kost stated that she supports that.

Commissioner Stewart stated that we would get through this, get the committees settled, and all have an understanding of the purpose and expectation. She reiterated that this is not political. It is good business and the way it should work. She offered to answer any questions after the Board of Commissioners' meeting.

#### **Chatham-Cary Plan:**

Commissioner Kost asked if the final date had been set to receive public comments on the draft Chatham-Cary Plan. Chairman Bock stated that it had not been set.

#### **Open Government Tab:**

Chairman Bock encouraged everyone to take a look at the Open Government Tab. He stated that a lot of the information that is there has always been there. They have tried to consolidate it onto one page. They have also added several things. The "Resolutions Page" has been there for a couple of months now. They try to place agreements there before they are voted on. There is a lot of good information there. He asked if anyone sees something that they think should be there, to let them know. He asked the Finance Officer to explain the checkbook that is now online.

Vicki McConnell, Finance Officer, stated that there is a report of all the checks that have written including electronically transferred money for the month. Chairman Bock stated that it did not have account numbers or Social Services recipients' names; however, it does have if a check was paid to a contractor. Ms. McConnell stated that it had the vendor, the amount, and the date but you cannot see what was actually paid for. She stated that their software would not allow them to do that. Hopefully with the new software, it can be made more user friendly.

Chairman Bock stated that this is a nice interim step and he appreciates it being done.

#### **ICE Resolution:**

Chairman Bock stated that he wanted to clarify the intent of the resolution. He read it in its entirety as follows:

### **Rule of Law Resolution**

**Whereas,** *a Governments primary role is to provide for the protection of its inhabitants and property and the preservation of peace and good order therein; and*

**Whereas,** *the County is within its authority to adopt such laws and other measures as it deems expedient to secure and promote the health, safety and general welfare of its inhabitants which are not inconsistent with the general laws of the State; and*

**Whereas,** *Chatham County believes legal immigration has been a benefit to the County and the State of North Carolina and is one of the core principles upon which our thriving society is built; and*

**Whereas,** *the resolution on the Federal Immigration and Customs Enforcement (ICE) program approved on January 5, 2009 by the Chatham County Board of Commissioners (the "ICE Resolution" inadvertently caused confusion within our community concerning the status of Chatham County as a "sanctuary county"; and*

**Whereas,** *the Chatham County Board of Commissioners wishes to clarify any confusion created by the ICE Resolution;*

**Now, Therefore,** *be it resolved that Chatham County supports and encourages local law enforcement to continue using all legal means within their authority to enforce the laws of the*

*United States of America, the State of North Carolina and Chatham County;*

**Be it further resolved** *that Chatham County supports the cooperation of local law enforcement with all Federal and State agencies as is necessary and feasible to enforce these laws;*

**Be it further resolved** *that all resolutions and clauses or portions of resolutions in conflict herewith are hereby repealed.*

Chairman Bock stated that this is not a 287 (g) resolution. It is not encouraging any specific program. All it is doing is trying to clear up the one paragraph in the original resolution that said, "Chatham County Board of Commissioners stands in strong opposition to any local government agencies contracting with US Immigration and Customs Enforcement (ICE) for the purpose of enforcing federal immigration laws". He stated that was the paragraph that gives him a problem. The new resolution is their opinion that they feel that they should be doing all that they can that is feasible.

### **ADJOURNMENT**

Commissioner Petty moved, seconded by Commissioner Cross, to adjourn as the Chatham County Board of Commissioners and convene as the Southeast Chatham Water District Board. The motion carried five (5) to zero (0), and the meeting adjourned at 8:04 PM.

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Brian Bock, Chairman

ATTEST:

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