

**MINUTES**  
**CHATHAM COUNTY BOARD OF COMMISSIONERS**  
**REGULAR MEETING**  
**FEBRUARY 21, 2005**

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The Board of Commissioners ("the Board") of the County of Chatham, North Carolina, met in the District Courtroom, located in Pittsboro, North Carolina, at 6:00 PM on February 21, 2005.

Present: Chairman Bunkey Morgan; Vice Chair, Tommy Emerson; Commissioners Patrick Barnes, Mike Cross, and Carl Outz, County Manager, Charlie Horne; County Attorney, Robert L. Gunn; Assistant County Manager, Renee Dickson; Finance Officer, Vicki McConnell; and Clerk to the Board, Sandra B. Sublett

The meeting was called to order by the Chairman at 6:00 PM.

**PLEDGE OF ALLEGIANCE AND INVOCATION**

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

**AGENDA AND CONSENT AGENDA**

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

The County Manager asked that Item #7, Consideration of a request to approve telephone system purchased with grant funds for the Department of Social Services be removed from the Consent Agenda and deferred until a later date; that the Child Fatality Prevention Team Appointment be removed from the regular Agenda and deferred until a later date; that the public hearing for the 2003 Stockyard Road closeout, which had been advertised for the February 21, 2005 Board of Commissioners' meeting be added to the Agenda after the Public Input Session; and that a Public Information Session regarding personal computers and e-mail messages be added under Commissioners' Reports.

The County Manager announced that the Legislative Delegation meeting scheduled for February 24, 2005 at The Farrington House has been cancelled.

Commissioner Cross asked that a resolution on one percent land transfer tax fee be added to the Agenda under Commissioners' Reports.

Commissioner Emerson moved, seconded by Commissioner Outz, to approve the Agenda and Consent Agenda with the noted requests. The motion carried five (5) to zero (0).

**CONSENT AGENDA**

1. **Minutes:** Consideration of a request to approve Board minutes for regular meeting held February 07, 2005 and work session held February 07, 2005

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

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

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

3. **Road Names:** Consideration of a request from citizens to approve the naming of private roads in Chatham County as follows:

- A. Horse Haven Lane
- B. Hay Barn Lane
- C. Paul Alston Drive
- D. Palimino Drive

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

4. **Central NC Regional Library "Safe Child Policy":** Consideration of a request to approve the Central NC Regional Library "Safe Child Policy", attached hereto and by reference made a part hereof.

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

5. **Chatham Transit Network Board of Director's Appointment:** Consideration of a request to appoint Elena Gonzales to the Chatham Transit Network Board of Directors

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

6. **Setting Public Hearing for Closing of Streets:** Consideration of a request to set March 21, 2005 as the date on which to hold a public hearing on the closing of certain streets in Haywood

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

- ~~7. **Telephone System for Department of Social Services:** Consideration of a request to approve telephone system purchased with grant funds for the Department of Social Services~~

This item was removed from the Consent Agenda for consideration at a later date.

### **END OF CONSENT AGENDA**

### **PUBLIC INPUT SESSION**

**Larry Ballas**, 139 Indian Creek Lane, Apex, NC, asked that the verbiage on the instructions for the Public Input Session, "No individual may speak more than one time in any three month period." be stricken. He stated that he would like to see some status updates on the campaign promises to increase economic development and bring industry and jobs to the County; that he wanted to know when additional water services may be added in the northeast part of the County; and that he would like an opportunity for the public to comment on what the new tax rate should be after this revaluation.

Chairman Morgan gave an overview of economic development in the industrial park.

**Bruce Miles**, President of the Homebuilders Association in Chatham County, 1850 Otis Johnson Road, Pittsboro, NC, talked about their opposition to impact fees. He stated that they adamantly opposed the increase in impact fees; that the impact fee cannot be used widely, for example Jordan-Matthews High School needs repairs and a new cafeteria; that new homebuyers should not shoulder the burden alone; and that the increase in impact fees will have a negative effect on custom homebuilders because the fee must be paid up front at permitting.

## **STOCKYARD ROAD**

**2003 Stockyard Road Closeout:** Public hearing to receive public comments on the 2003 Stockyard Road closeout

**Floyd Adams**, stated that he had been assisting the County in running the Community Development Block Grant Program (CDBG) for the Stockyard Road Sewer Project; that the project is in the final stages of being complete; that there is only one client left that needs to be hooked-up; that that will be paid for by some of the County's local match funds; and that the purpose of the required public hearing is so that the program can be closed out.

He stated that the total project budget was \$787,492.69; that the program spent \$722,001.29 of CDBG funds; that with the money, twenty-eight families were served; that there is one left to be served which will make twenty-nine families with new sewer connections to a central sewer system; that the work included 8,813 feet of eight-inch gravity sewer and 3,150 linear feet of a forced main (which is a small pump in the yards and then pumping to the gravity line); that they feel the project has been successful; and that it did take a lot of time; and that they found a lot of rock.

Mr. Adams answered questions from the Board.

The Chairman opened the floor for public comments.

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

Commissioner Emerson moved, seconded by Commissioner Outz, to formally close the public hearing on the 2003 Stockyard Road closeout. The motion carried five (5) to zero (0).

## **PUBLIC WORKS**

### ***Public Meeting – Environmental Scoping:***

**Chatham County – Southeast Chatham Water District Environmental Scoping Meeting:** Consideration of a request to provide information regarding the Southeast Chatham Water District as it relates to the preparation of the Environmental Assessment and Preliminary Engineering Report and to accept public comments on the project

Tim Carpenter, Hobbs, Upchurch & Associates, stated that the purpose of the meeting is to provide information regarding the Southeast Chatham Water District as it relates to the preparation of the Environmental Assessment and Preliminary Engineering Report and to accept comments on the project. He stated that it is anticipated that the funding for the project will be obtained from the Department of Agriculture (USDA) Rural Utilities Service.

He stated that the project is proposed to consist of approximately 24 miles of water main, one tank and two master metering stations with the capability of serving approximately 350 customers, and that it is anticipated that all water mains shall be installed within existing NCDOT rights-of-way.

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

The Chairman closed the comments section on the Southeast Chatham Water District Environmental Scoping meeting.

**Chatham County – Southwest Chatham Water District Environmental Scoping Meeting:** Consideration of a request to provide information regarding the Southwest Chatham Water District as it relates to the preparation of the Environmental Assessment and Preliminary Engineering Report and to accept public comments on the project

Mr. Carpenter explained that the purpose of the meeting is to provide information regarding the Southwest Chatham Water District as it relates to the preparation of the Environmental Assessment and Preliminary Engineering Report and to accept comments on the project. He stated that it is anticipated that the funding for the project will be obtained from the Department of Agriculture (USDA) Rural Utilities Service.

He stated that the project is proposed to consist of approximately 48 miles of water main, one tank and booster pump station with the capability of serving approximately 450 customers, and that it is anticipated that all water mains shall be installed within existing NCDOT rights-of-way.

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

The Chairman closed the comments section on the Southwest Chatham Water District Environmental Scoping meeting.

## **PLANNING AND ZONING**

**Amendments to Chatham County Watershed Protection Ordinance:** Consideration of a request by Nicholas P. Robinson, attorney, on behalf of Bynum Ridge, LLC for amendments to the Chatham County Watershed Protection Ordinance Sections 303 (A) and Section 600. The proposed amendments would allow single-family cluster developments located within more than one watershed to share density in the different watersheds without exceeding the maximum allowed in the combined watersheds.

Commissioner Cross stated that he was considering an amendment to the Watershed Protection Ordinance by variance; that if it can be done by variance, he feels that the Board needs to return to the original proposal that was addressed at the public hearing (400 ft. buffers with no vertical structures); that if this cannot be done, he feels that another public hearing would need to be held pertaining to gazebo-like structures.

Commissioner Cross referenced a “Resolution to Amend Chatham County Watershed Ordinance to Only Allow a Clustered Subdivision to Span Across Watershed Districts Where the Developer Can Provide Clear and Convincing Scientific Evidence that Approving this Amendment Will Provide Greater Protection to the Environment” supported by various community groups.

The Board of Commissioners discussed various issues concerning the three requests: where the text amendment would be applicable; a better understanding of significant terms in the proposal such as “gazebo

type” structures; and other issues.

Nick Robinson, attorney, stated he doesn't want anyone to get caught-up in terminology; that the Planning Director is correct in saying that the Watershed Protection Ordinance does provide, under very narrow circumstances, that a “variance from the ordinance can be granted”; that if the Board wishes to discuss the possibility that the Watershed Ordinance could be amended to relate specifically to a particular tract as opposed to just the Jordan Lake Watershed or just the zoned area for the entire County, there is a way to do it; that that would be with an amendment to the map itself to revise the map so that just this particular 650 acre tract would fall under the watershed classification of “Watershed Protected Area”.

Commissioner Cross moved to reopen the public hearing on the Williams Pond issue and to discuss the differences between what happened between the first proposal that went to the Planning Board for consideration and second proposal that was somewhat modified.

The Planning Director stated that in order to reopen the public hearing, it would have to be re-advertised.

The motion died for lack of a second.

After considerable discussion, Commissioner Emerson moved, seconded by Commissioner Outz, to adopt Resolution Approving An Application For A Conditional Use Permit For A Request By Bynum Ridge, LLC For Bynum Ridge Planned Residential Development, substituting the suggested zoned area of the County with the Jordan Lake Watershed Area depicted on the attached map.

The discussion ensued, and Commissioner Emerson respectfully withdrew his motion.

Commissioner Outz withdrew his second to the motion.

Commissioner Barnes moved, seconded by Commissioner Outz, to table all three issues. The motion carried five (5) to zero (0).

**Conditional Use District Request:** Consideration of a request by Bynum Ridge, LLC for a Conditional Use District (CU-RA-90) on 650 acres (presently 242 acres zoned RA-5 and 408 acres zoned RA-40) on the south side of SR #1711, Bynum Ridge Road

This item was tabled until a later date.

**Conditional Use Permit for Planned Unit Development:** Consideration of a request by Bynum Ridge, LLC for a Conditional Use Permit for a Planned Unit Development, Williams Pond Residential Community, consisting of 185 lots on 650 acres, located on the south side of SR #1711, Bynum Ridge Road, Baldwin Township

This item was tabled until a later date.

## **BREAK**

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The Chairman called for a ten-minute break.

## **BOARDS AND COMMITTEES**

**Appearance Commission Appointments:** Consideration of a request to appoint two members to the Appearance Commission by Commissioners Cross (1) and Barnes (1)

Commissioner Cross moved, seconded by Commissioner Emerson to appoint Mr. David Henry, 139 East Cotton Road, Moncure, NC, to the Appearance Commission. The motion carried five (5) to zero (0).

Commissioner Barnes deferred his appointment to the Appearance Commission until a later date.

**Child Fatality Prevention Team Appointments:** Consideration of a request to appoint a member to the Child Fatality Prevention Team by Commissioner Outz (1)

Commissioner Outz deferred his appointment to the Child Fatality Prevention Team until a later date.

**Chatham Partnership for Children Appointment:** Consideration of a request to appoint a Commissioner to the Chatham Partnership for Children

Commissioner Barnes moved, seconded by Commissioner Outz, to appoint Commissioner Emerson to the Chatham Partnership for Children. The motion carried five (5) to zero (0).

**Municipal Planning Organization Appointment:** Consideration of a request to appoint a Commissioner to serve on the Municipal Planning Organization

Commissioner Cross volunteered to serve on the Municipal Planning Organization stating that he had already been serving on the Area Regional Planning Organization for two months.

Commissioner Emerson moved, seconded by Commissioner Outz, to appoint Commissioner Cross to the Municipal Planning Organization. The motion carried five (5) to zero (0).

## **BOARD OF COMMISSIONERS' MATTERS**

**Impact Fees:** Discussion of a request to change the Chatham County Educational Facilities Impact Fee Ordinance

Chairman Morgan stated that the Board had heard many comments on Impact Fees. He stated that he had been working on them since the year before; that there had been a great deal of staff and citizen input; that he appreciated everyone's participation; that he had received many calls from builders and developers; that the Chatham County Board of Education is now meeting to determine their final request regarding an amount to bring before the Board of Commissioners; that that amount appears to be somewhere close to one hundred million dollars; that the request will most likely consist of three new schools (an elementary school in Siler City, a middle school in the northeast, and a high school in the northeast); that it will take approximately 60-70 million dollars; that the Board of Education said that they have only their architectural and their research company quoting prices; that he asked if they had received competitive bids; that they had not yet done so; and that they would like to meet with the Board of Commissioners to present their proposal.

By consensus, the Board set Monday, February 28, 2005, 6:30 PM as the date on which to hold a joint meeting with the Chatham County School Board. The meeting will be held in the Superior Courtroom.

Commissioner Cross stated that the County has to build schools and it has to have a way to pay for them; that he hopes that the County can get General Assembly approval of the one percent land transfer fee; that the possibilities of getting it approved are slim but he thinks that it should still be pursued; that the school

impact fee is another option; that there are also real property taxes or the school bond; that during the discussion on February 28<sup>th</sup>, he thinks the Board can talk about all of them; that everyone can have input; that he has prepared the resolution which he would like for the Board to approve, pending the County Attorney's approval, so that it will be ready when the meeting with the Legislators take place.

Commissioner Cross read the resolution in its entirety.

After considerable discussion, Commissioner Cross moved, seconded by Commissioner Emerson, to adopt the **Resolution #2005-08 to Seek Legislative Approval for a Local Bill to Authorize Chatham County to Levy a One Percent Land Transfer Tax**, attached hereto and by reference made a part hereof. The motion carried four (4) to one (1) with Chairman Morgan dissenting.

**The Community Backyard:** Consideration of a request to support an application with matching funds for SAMHSA's 2005 Drug Free Communities Support grant

Commissioner Emerson moved, seconded by Commissioner Barnes, to support an application as follows:

1. A Letter of Support that describes Chatham County's full participation in the Chatham County Committee to Reduce Underage Alcohol and Drug Use. Included in the letter would be the County's statement about the importance with which it regards this issue.

2. An in-kind contribution of \$5,000 to be used in the following manner:

Committee Participation:	staff member est. @ \$15/hr.	\$1,440
8 hrs/month for 12 months		
Office space for meetings: 1 meeting/month for 12 months		\$ 600
Distribution of Media Messages and Program Announcements		\$1,000
Public relations for Town Meetings (phone calls, faxes, etc.)	\$1,500	
Paper Supplies		\$ 60

3. A cash contribution of \$5,000 to be used to sponsor 12 town meetings throughout the County, one per month, to build the local coalition, educating all stakeholders about issues of concern, creating local media campaigns, engaging law enforcement, schools, faith communities, parents, youth etc. in reducing underage alcohol and drug use.

The motion carried four (4) to one (1) with Commissioner Outz opposing.

**James O'Kelly Cemetery in Colvard Farms Development:** Consideration of a request to approve releasing the four-tenths of an acre not in the cemetery proper to the adjacent landowner in Colvard Farms Development; and consideration of a request that the Colvard Farms Homeowners Association be granted ownership of the actual cemetery as well as responsibility for on-going maintenance

Jeff Hunter explained that his brother, Neal Hunter, owns property in Chatham County that surrounds an abandoned private cemetery known as the James O'Kelly Cemetery; that the cemetery was created by deed at one-half acre; that the actual cemetery size is 65 feet by 65 feet or approximately 1/10 of an acre; that they are requesting the Board to approve releasing the 4/10s of an acre not in the cemetery proper to the adjacent land owner; that, in addition, they wish that the Colvard Farms Homeowners Association be granted ownership of the actual cemetery as well as responsibility for ongoing maintenance; that in recent consent conversations with Jane Pyle of the Chatham County Historical Society, Bill Clark, representing the development company, learned that the State of North Carolina considered this cemetery abandoned and that

the actual size was much less than ½ acre; that Ms. Pyle suggested that they have an expert confirm the location of the cemetery and then petition the Board of Commissioners to release the unused portion of the ½ acre to the adjacent landowner.

The County Attorney asked the name of the gentleman who gave the deed that reserved the ½ acre for the cemetery. He further stated that his heirs would be the ones who would have to release it, and that he would be happy to review the General Statutes on the graveyard.

By consensus, the Board agreed with what Mr. Hunter was trying to accomplish. They suggested that he contact an attorney regarding this matter.

**Public Defender's Office Lease Agreement:** Consideration of a request to approve the lease agreement for the public defender's office

Commissioner Barnes moved, seconded by Commissioner Emerson, to approve the lease agreement for the public defender's office, attached hereto and by reference made a part hereof. The motion carried five (5) to zero (0).

### **MANAGER' S REPORTS**

The County Manager had no reports.

### **COMMISSIONERS' REPORTS**

#### **Public Information and Commissioners' E-Mail Messages:**

The County Attorney explained that as long as a personal computer is owned by a Commissioner in their own home, that the e-mails were not public record; and that anything coming into the Manager's Office or another office would be considered public record.

Chairman Morgan stated that he would like to see the requests come through either the Manager's Office or the County Attorney.

Commissioner Outz moved, seconded by Commissioner Emerson, that any request for public records that has come to the Board will be forwarded to the County Manager who will review the request with the County Attorney for his approval to forward the information to the one making the request. The motion carried five (5) to zero (0).

#### **Mountaire Farms Hatchery:**

Jeff Beavers with Mountaire Farms appeared before the Board asking for a building permit to be issued for the expansion project of the Mountaire Farms Hatchery at the physical location of 4555 US #421 South, Siler City. He stated that the expansion is a \$7,000,000 project that will be a great impact to the economic development of the County; that the tax base and utility departments will gain from this expansion; that the engineers have already awarded bids with subcontractors from Chatham County for a major portion of the construction; that the impact will also affect the job market of the County by increasing their employees from 33 to 45 employees at the onset of the completion.

He stated that the request to the County is for the building permit to be issued upon this request in order to continue the progress of the project without delay; that Mountaire Farms as a company is



environmentally conscious of the need to protect and preserve the environment and the land that neighbors them; that the permits for the wastewater system are being submitted to the State of North Carolina for approval; that the soil testing and available land usage has already been approved; that Mountaire has obtained a "pump and haul" permit from the Division of Water Quality; that they are asking the County to honor this permit and issue a building permit so as not to delay construction; that the plan for the wastewater during the construction of the wastewater system has been planned as the following: PFM Trucking, Bonlee, NC will transport any wastewater to the Mountaire Farms Plant Facility in Lumber Bridge; that this facility is owned and operated by Mountaire Farms and already has a wastewater system in operation; that construction of the new wastewater system is scheduled to be completed before the completion of the expansion and before wastewater capacity is needed.

He asked that the Board approve the building permit for this \$7,000,000 project which will allow the work and plans to be scheduled without delay or holdup to all parties of the project.

Commissioner Outz moved to work with Jeff Beavers and Mountaire to do everything necessary within the County's power to grant their request and to assume associated legal costs.

The motion died for lack of a second.

The County Attorney stated that it would be "tricky business" for the County to issue a permit if everything was not in place; that he wants to make sure that everything is within the law; and that he will research the matter.

By consensus, the Board agreed to do everything possible through the County Attorney to help secure the Mountaire building permit.

### **RECESS**

Commissioner Barnes moved, seconded by Commissioner Cross, to recess the meeting until the joint meeting with the Chatham County Board of Education on Monday, February 28, 2005 at 6:30 PM in the Superior Courtroom. The motion carried five (5) to zero, and the meeting was recessed at 9:11 PM.

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Bunkey Morgan, Chairman

ATTEST:

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