

**MINUTES
CHATHAM COUNTY BOARD OF COMMISSIONERS
WORK SESSION
FEBRUARY 18, 2013**

The Board of Commissioners (“the Board”) of the County of Chatham, North Carolina, met in the Agricultural Building Auditorium, 45 South Street, Pittsboro, North Carolina, 2:00 PM on February 18, 2013.

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

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

Work Session

1. **Public Input Session**
2. **Employee of the Quarter**
3. **Discussion of Energy Audits of County Buildings**
4. **Update on the Library’s Holmes Room Reservation Rules**
5. **Discussion of the Agriculture Center and its location, multipurpose uses, and financing**
6. **Formally oppose a bill to rescind the state collection of county vehicle taxes and request that the General Assembly hold counties harmless in tax reform**
7. **Closed Session to Discuss Potential Litigation**

CALL TO ORDER

Chairman Petty welcomed those in attendance and called the meeting to order at 2:00 PM.

PUBLIC INPUT SESSION

Michael Tucker, 106 Redbud, Pittsboro, NC, (3313 Bowers Store Road, Siler City, NC – processing site), presented his comments to the Board and provided them in their entirety for the record as follows:

“Metro Energy Corporation (MEC) proposes an additional contract to remove a relatively small number of scrap tires from Chatham County collection sites and to be paid for processing/disposal of those tires.

MEC DOES NOT propose replacing or limiting existing contract (with CCTD).

MEC proposes significant savings for Chatham County by charging \$60 per ton. County now pays \$69.24 per ton for tires collected at the landfill and \$110.05 per ton for tires collected at various convenience centers.

MEC has recycled 100% of tires it has processed. CCTD collects 8-9 million tires per year and puts them in a hole in the ground (monofil). MEC, at full production, in phase 2, will probably only process 1-2% of that number.

The existing contract with CCTD DOES NOT demand exclusivity. There is nothing to force the county to have one, exclusive contractor. The existing contract is designed for the convenience of the county, NOT the contractor. The county solid waste director already deals with multiple vendors and contractors handling municipal waste, hazardous waste, mulch, electronics, etc. One more (MEC) will not be a detriment.

A second contractor for the processing and disposal of scrap tires will introduce competition to the benefit of the county. Competition should be encouraged by county government when it benefits the county and its citizens.

Dan LaMontagne's objections and reasons for rejecting MEC proposal fall into two categories:

1. Operations on county property (landfill and convenience centers).
2. MEC's processes and procedures for processing/disposal of scrap tires.

Dan LaMontagne's reasons for rejecting MEC proposal on county property:

Dan LaMontagne does not feel comfortable with MEC personnel taking scrap tires out of the trailer provided by CCTD. Dan says this would be a kind of stealing.

MEC's answer to Dan LaMontagne's concerns:

- The county owns the tires NOT the contractor. This cannot be stealing if MEC is performing according to contract. The county owns the tires until the contractor takes possession of those tires by removing them from county property. Let's say an individual brings a tire with a smoldering ember to the landfill or convenience center. The ember smolders for a little while and catches all the tires on fire. If the county cannot prove who brought in the tire with the ember, who is responsible? The county. The county owns the tires.
- The contractor provides Chatham County trailers for the county's convenience. Some counties pile the tires on the ground.
- Chatham County requires people with tires to enter the trailer and load the tires as tightly as possible. Individuals, retailers, and tire haulers go deeply in and out all day.



This is a picture of the trailers at the landfill. The sign says, "TIRE DROP-OFF. Please lace tires neatly and as high as you can towards the front of the trailer".

Dan LaMontagne's reasons for rejecting MEC proposal based on MEC processes and procedures:

Dan expressed his unwillingness to do business with MEC until his specific conditions are met.

MEC's answer to Dan LaMontagne's concerns about MEC's processes and procedures:

The State of North Carolina regulates the operation of MEC facilities according to federal laws, state laws, and administrative regulations. Each law and regulation must be complied with as a condition of state permitting. MEC passed inspection and met all requirements for construction and operations. MEC is inspected by the state each year. MEC must prove compliance with all requirements each year. MEC passed all inspections with no violations. MEC passed its most recent inspection with no violations.

Dan's specific conditions for MEC processing, recycling, and disposal of scrap tires exceed state and federal standards. Dan's specific conditions exceed MEC's permit requirements.

The county solid waste director has no authority to exceed those laws and regulations without the Chatham County Board of Commissioners' approval. The existing contractor did not have to meet similar excessive requirements as conditions for the existing contract."

Judi Anderson, 11415 Governors Drive, Chapel Hill, NC, asked where she can get more information on the proposed water agreement between Durham and Chatham County in support of the property that is located at Highway #751 and Stage Coach Road. She stated that she was seeing conflicting information and would really like to know more.

Chairman Petty responded that Aqua North Carolina asked to purchase water from the County. The County saw an opportunity to partner with them in a way to provide services to some Chatham County areas where they currently do not have it. At this point, they are just negotiating the terms of the possible contract. There are no details at this point. Staff was instructed to meet with them and come up with something agreeable to both parties for the Board of Commissioners to review and either approve, deny, or continue negotiations.

EMPLOYEE OF THE QUARTER

Carolyn Miller, Human Resources Director, explained that the 2013 Employee of the First Quarter is Kathy Scott of the Finance Office. Ms. Scott has worked for the County for nearly 27 years. An excerpt from her nomination form follows:

As the Assistant Finance Officer, Ms. Scott is a critical component in maintaining the County's fiscal integrity and wise use of the County's financial resources. Her outstanding performance in this area has contributed to the award of 23 consecutive certificates of achievement for excellence in financial reporting awards from the Government Finance Officer Association, as well as monetary savings and interest earning for the County. Aside from the general management of the County's revenues and expenses and the supervision of four accounting staff, there are three areas of note that highlight Ms. Scott's commitment and excellent performance: 1) Management of investments; 2) Procurement card processing and rebates; and 3) Special projects.

Ms. Scott manages \$80 million worth of investments, and regularly maximizes investment return by thoroughly researching and negotiating interest rates with banks and investment companies to obtain the highest rate of return on our investments. As an example of how critical this is, a negotiated 1% more on all of our \$80 million in investments could net the County an additional \$800,000 in interest earned.

Secondly, Ms. Scott initiated the idea to obtain software that better and more accurately managed the procurement card system, resulting in more accuracy and detail for budgeting purposes. She also maximizes the County's use of the rebate system, and for the year 9/1/10 to 8/31/11, our rebate check was \$7,565.45. For the year 9/1/11 to 8/31/12 our check will be \$19,756.94, for a two-year rebate total of \$27,322.39. The rebate for the next year is expected to be even larger. Ms. Scott works with vendors to encourage them to take credit card payments (some are reluctant because they are charged for credit payments), thus allowing our rebates to be even larger.

The County maintains many special project accounts that have more restriction on the types of expenditures they may be used for. Ms. Scott meticulously reconciles those special project funds to insure that funds are being spent according to the legal restrictions. Her attentiveness to detail in this area prevents possible penalties and qualifications in the audit.

If there is a resident "know-it-all" in the department, it is Ms. Scott. Not only is she well versed in all of the finance office functions, she consistently delivers excellent customer service to all our departments, and is that "bridge" to help others understand and manage their revenues and expenditures effectively.

The proper management of the County's financial resources is the critical foundation that insures we have the resources to deliver quality services to the citizens of Chatham County. Ms. Scott is a driving force in the Finance Office for not only maintaining that foundation, but constantly searching out ways to make it even stronger.

The Chairman congratulated Ms. Scott on behalf of the Board of Commissioners.

ENERGY AUDITS OF COUNTY BUILDINGS

Discussion on performing energy audits on the County's LEED certified buildings, including Pollard Middle School, CCCC Sustainable Technology Building, and the Chatham Community Library. Present a summary of the cost savings attributable to the Johnson Controls energy contract.

David Hughes, Public Works Director, explained that Johnson Controls and Chatham County agreed on specific objectives by which to measure their performance on the County's behalf. All calculation methodology can be found in schedule two of the signed PC Agreement. The work was financed through the savings that were realized over a period of fifteen years. The cost of the contract was approximately \$900,000.00. The guaranteed energy savings were approximately \$1,500,000. It was done for HVAC equipment and lighting. They perform the energy audit each year for an approximate cost of \$7,000.00.

Chairman Petty asked if Mr. Hughes was satisfied that we are accomplishing the anticipated desired results.

Mr. Hughes stated that according to the audit, we are \$25,823.00 over the guaranteed savings amount.

Commissioner Kost asked if there was a component of Johnson Controls that dealt with the water system.

Mr. Hughes stated that the County did that itself for about half the cost Johnson Controls was going to charge.

Commissioner Bock asked if there was any way to break down the various components for costs and savings. He stated that he would like to know which ones we are getting the most money and which ones are hidden by the overall savings.

Mr. Hughes stated that he would have to look at the original contract but most of the costs pay for themselves within fifteen years.

Chairman Petty stated that there may be items that we choose not to do if it costs a substantial amount of money to do it and the return minimal.

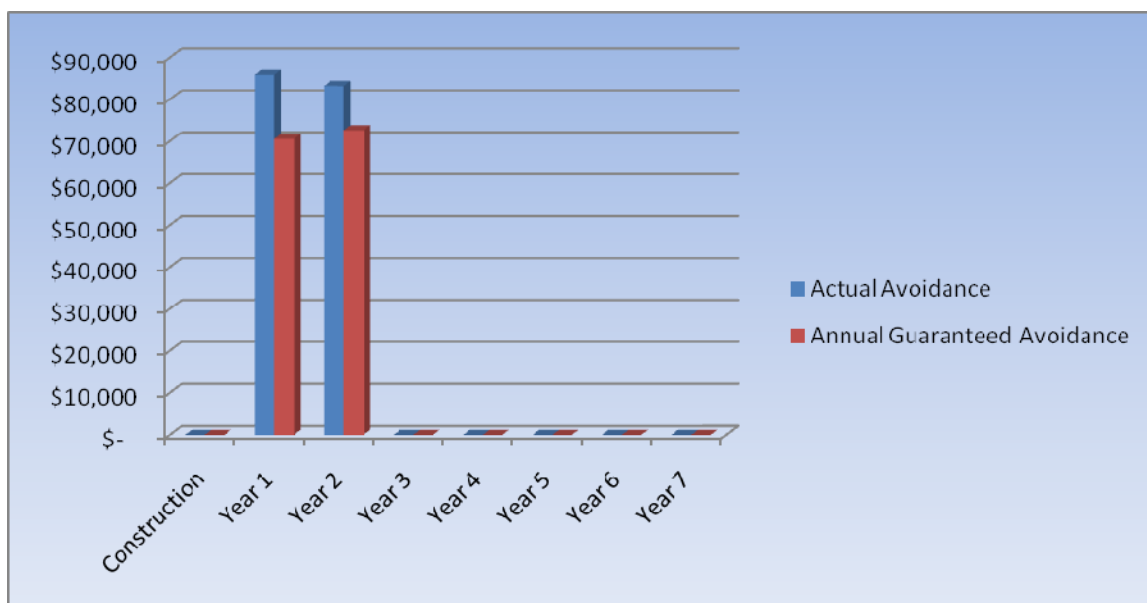
Mr. Hughes stated that most of the items with the greatest savings (HVAC equipment) have already been done. It was replaced with more energy efficient equipment and it paid for itself in short order. He stated that “controls” were another area in which a lot of money was saved. The old controls were wall-mounted thermostats and were not programmable. They were running all night. They were replaced with a computer-controlled system which is monitored from a central location. When they know the building is going to be empty from 8:00 PM until 6:00 AM, the thermostat can be set considerably lower.

Commissioner Kost about the amount that was lost due to annex scheduling.

Mr. Hughes explained that they had to tweak the set-back schedule. The original set-back schedule was a little too close to the time that the cleaning crew was arriving at 6:00 AM. They were originally not turning up the system until 6:30 AM which had to be adjusted in the winter months due to the buildings being cold when the cleaners came in.

The table below summarizes the Measurement and Verification results that have been achieved for year one:

Objective 1: Meet Annual Guaranteed Cost Avoidance

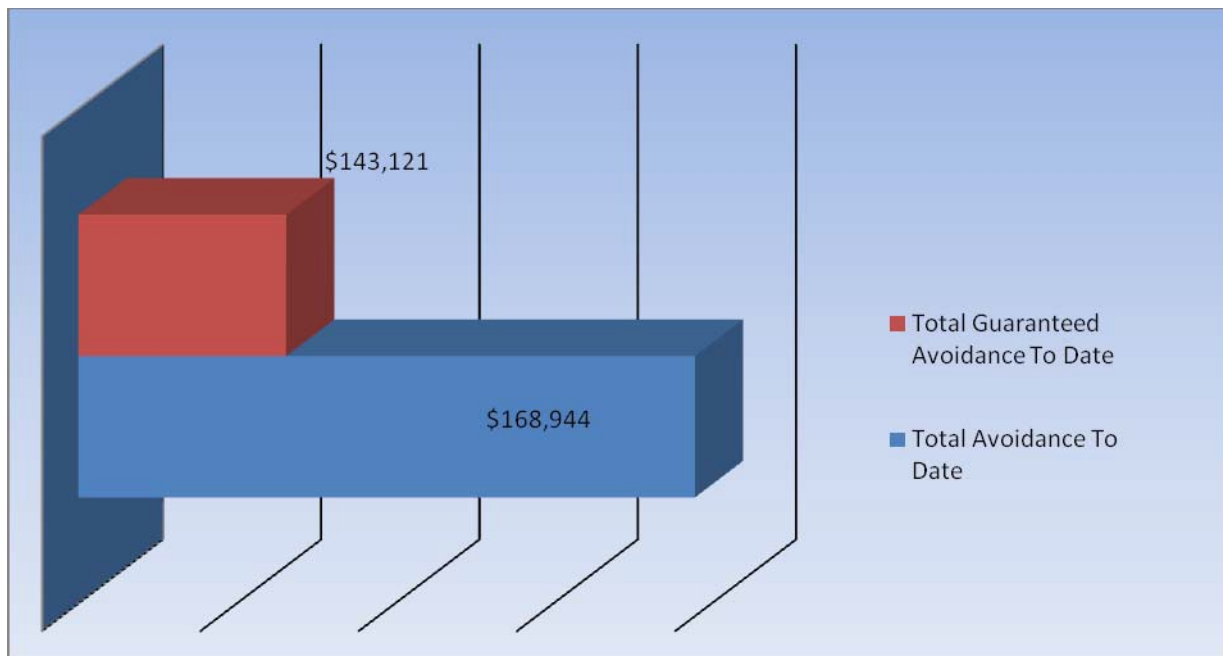


Notes:

- Year One had a discrepancy in lighting avoidance and overall avoidance has been corrected to \$85,768.00
- Johnson Controls Inc. guaranteed a total avoidance for year two of \$72623,00.00
- Our Second Year avoidance totaled \$83,176.00
- Annex Building lost over \$3,000.00 in avoidance due to increased scheduling

Improved Financial Performance

(Financial Performance comparison Actual vs. Guaranteed)



Notes:

- Our second year results put us around \$25,823.00 ahead at this time.
- We must maintain our focus on comfort and energy reduction. If not, this cushion can easily slip away.

Breakdown of Avoidance

Facility Improvements	Avoidance
HVAC Controls & Scheduling	\$10,703
Water Retrofit Sheriff's Office	\$1106
Ozone Generator	\$1,714
Vend Misers	\$824
Sheriff Solar	\$4,142
Animal Shelter Solar	\$1,080
Lighting	\$21,434
Computer Power Mgmt.	\$9,270
Operational	\$21,138
HVAC EFF/Upgrade	\$11,765
Totals	\$83,176

Notes: None at this time.

Chairman Petty stated that at an earlier Board of Commissioners' meeting, it was discussed to have someone to perform an audit to make certain the County is getting its money's worth.

Commissioner Kost stated that the audit should also include practices of the building. She stated that in the Community Library, the Holmes Meeting Room was designed to be entered through the front room with the library closed and the meeting space used. Often times, after the normal library business hours, one has to enter through the side door. The door has to be propped open. Also, the blinds are always closed. The room was designed for natural daylight. She stated that she hoped a natural energy audit would include if it is meeting the expectation and also if we are using the building the way it is supposed to be used.

Commissioner Bock stated that he thinks that is what is the most important about the audit. The end result is how the buildings can be used to live up to what they are supposed to do.

Commissioner Kost stated that this would be helpful in future construction.

CHATHAM COMMUNITY LIBRARY

Holmes Room Reservation Rules Update:

Linda Clarke, Library Director, explained that there have been some concerns expressed about the policies for the Holmes Family Meeting Room. She stated that their policies have been in existence for a long time, but thinks the policies about which there is concern are the ones with regard to how far in advance rooms/space may be reserved. From the library's perspective, they view that space as space on which they have first claim. If the room is committed a lot into the future, they lose their flexibility in terms of being able to use it. The main way they use the room is for programs.

She read a very complimentary email to the Board regarding one of the programs they held. She distributed copies of the Chatham Community Library Meeting Room Policies to the Board.

Commissioner Bock asked how many days in advance the meeting room can be reserved.

Ms. Clarke stated 45 days in advance.

Commissioner Bock asked if her concern was that if the policy was extended to more days, that it could adversely affect the programming.

Ms. Clarke stated that she would not support the idea of having people be able to book meetings way in advance. She stated that they also do not allow the room to be booked consecutively; however, if someone needed the room two days in a row for training, they would make an exception.

Commissioner Kost stated that she was told that she could not book a room out for more than 30 days. She stated that after having spoken with people in the County, it makes it difficult for them to use the room and promote their event when they only have 30-45 days to promote it. She stated that she would support an extension to 60, preferably 90 days.

Chairman Petty stated that based on what has been summarized, Chatham is in the middle of the road with regard to what is being done within quite a few counties.

Ms. Clarke stated that they know it is a popular venue because it is free which makes it really attractive.

Commissioner Bock stated that having been in charge of booking rooms for various past events, it is sometimes tough. As a County Commissioner, he thinks the primary purpose is to be used by the library and its programming. If there is time and space available for other meetings, it should be used for that. He stated that he would not support anything that negatively impacts the current programming or any expanded programming in the future.

Commissioner Kost asked how far in advance the library knows what they will be doing as it has to be promoted as well.

Ms. Clarke stated as with the summer reading program, they know they are going to have it, but do not know what day a certain person can be booked. She stated that they need to have the greatest amount of flexibility.

Commissioner Bock asked if the subject could be brought up in the next Library Advisory Board meeting.

Ms. Clarke stated that the next Library Advisory Board meeting is on March 5, 2013. She has spoken to the committee to place this item on their agenda and will return to the Board of Commissioners with their recommendation.

Commissioner Kost stated that it is the community's room and most follow at the 90-day booking schedule. She stated that she feels the 90 days could help the library. She also stated that a lot of the meetings to which she is referring would be in the evening, nights, and on weekends. She asked, if the Library Advisory Board decided to leave the policy as it is, other options including evenings and weekends could be looked at.

Ms. Clarke stated that in order to have the situation work where people are not going into the library after hours, the person has to come in and check out the key ahead of time.

Commissioner Kost stated that she didn't think it was clear what has to happen. The reason the building was designed like that was for people to come in the front door. At a meeting held yesterday, it was cold and the door had to be propped open which minimized energy savings. We need to find a way to make certain people understand about retrieving the key stating that it happens often.

Ms. Clarke stated that the Friends of the Library purchased expensive window darkening treatments at the request of people who said that the room was not dark enough during their meetings when they were trying to show presentations. They can be opened after the meetings.

Chairman Petty asked if Ms. Clarke would report back to the Board of Commissioners after she meets with the Library Advisory Board and provide two sets of guidelines, one for daily use and one for evenings.

Commissioner Kost stated that the HVAC is extremely loud. She stated that there has to be something done.

Ms. Clarke stated that upon their entrance today, there was water leaking in the work room from the HVAC system.

Commissioner Bock reiterated that if the library is doing programming, it is the community using it. It is not a matter of not being used by the community with the current policy.

Commissioner Kost stated that if the room is sitting empty and no one is using it because they couldn't reserve it in advance, she will stand by what she said.

The Deputy Clerk stated that she would update the intranet.

AGRICULTURE CENTER

Location, Multipurpose Uses, and Financing Discussion:

Vicki McConnell, Finance Officer, explained that the Board had options other than General Obligation (GO) Bonds that might be less expensive. She stated that the Board needs to decide which way they needed to go and that if they decide on a GO Bond, the sooner it is decided the better off they will be. At least three months are needed due to the elections process.

Commissioner Kost stated that they needed time to allow those organizations that form to work on behalf of the bond to raise money. They are the ones who will be advocating for or against it as the Board will not be able to take a position and use County funds to promote it. The concept of a civic center type building is one that she feels is a perfect opportunity for General Obligation Bonds because the community can decide whether this is something that the community wants.

Chairman Petty stated that he had asked for a list of those who had used the facility, how often, and with what frequency. He stated that there are 25-30 different entities listed. It is getting a good deal of use and there is a need for better meeting space. He stated that there has been some discussion with regard to where it should be located. He stated that personally he would like to see it placed in Siler City, his home and where there is a lot of agriculture on that side of the County; however, logistically, he feels it should be placed in Pittsboro. After talking with some of the staff and how they interact with other departments, he doesn't feel it would be in the best interest to isolate the new ag center 16-18 miles away.

Commissioner Cross stated that he felt it should stay in Pittsboro. He stated that the new building will be such that it accommodates many other uses that the present building will not such as larger gatherings, fine art events, etc. Another reason he would like for the building placement to be in Pittsboro is that if the Board goes for a GO Bond, hopefully they would have the support of the arts community for cultural events and would also have the agriculture from the western part of the County. He stated that he believes a bond would pass if it is located in Pittsboro, but he is not sure that it would if it was placed in Siler City. He stated that there are a lot of active, elderly people who are active in the northeast where the population is. He stated that he thinks there would have to be something big to get that group to drive to Siler City. Pittsboro is the County seat and geographically close to the center of the County.

Commissioner Bock echoed what Commissioner Cross said. He stated that he can see some arguments for putting it in Siler City and anything they could do to help them economically would be good; however, in this case Pittsboro is a central location, and his primary support in purchasing the property was with the intent to be a perfect location for an ag center. He stated his preference would be to use the land that was purchased in Pittsboro.

Commissioner Cross stated that the Board has also discussed the possibilities with Animal Control and vet training at the community college, and there is room there to do all of this.

Commissioner Kost stated that one argument used to build the center in Siler City was the lack of meeting space in Siler City. She asked staff to check and see if the meeting space for the general public can be used at the community college for after-hour meetings, gatherings, etc. If not, she asked what it would take to open it up for use after hours.

Commissioner Cross stated that there was also the courtroom in the Town Hall building. He stated that he was unsure if it was available for public use, but it would hold about as many people as the community college would.

Commissioner Bock stated that he felt we could make an argument for the lack of meeting space everywhere.

Chairman Petty stated that looking at the number of people that use the facility at this time, we potentially could run into some meeting schedule issues with this facility as was just discussed with the library. There will have to be time and energy put in to designing policies that people will be given an opportunity to use it.

Commissioner Cross stated that we should incorporate the daytime scheduling versus evening and weekend scheduling

Commissioner Bock stated that he would hate for the primary purpose to get lost which is for agriculture. He stated that it would be easy for that to get lost and become a civic center, but the ag center must remain the main purpose of the building.

Commissioner Cross stated that he didn't feel there would be an exponential increase as there are twenty plus customers already. They will stay, and there will probably be a few other uses.

Commissioner Bock stated that part of his concern would be in how it was promoted. If it is a performing arts center and a traveling troupe wants to put on a play, they will need the facility for a month in order to set up their props, practice, etc. He stated that we need to keep this in mind that we are not forgetting why this building is needed.

Commissioner Cross stated that was correct, but the ag programs should take priority.

Chairman Petty asked if everyone agreed that the new ag center should be placed in Pittsboro.

Commissioner Kost stated that some strong arguments were made to move the ag center to Siler City; however, it is also the fact that ag staff would be isolated from the rest of the County staff which is what has made her lean towards making sure it was situated in Pittsboro. She stated that if it is made part of the community college campus, it will all work together.

Commissioner Kost moved, seconded by Commissioner Cross, to ask the Chairman to send letter a to Siler City Board explaining the reasons behind the decision that the Board of Commissioners made to locate the ag center in Pittsboro. The motion carried five (5) to zero (0).

Commissioner Cross moved, seconded by Commissioner Bock, to place the new ag center in Pittsboro on the property purchased adjacent to the Central Carolina Community College. The motion carried five (5) to zero (0).

Sam Groce, Cooperative Extension Director, thanked the Board for making the motion. He explained that in Cooperative Extension, they deliver programs to all citizens of North Carolina. It includes agriculture, consumer sciences, 4-H and youth development, etc. If it was put on one side of the County, someone would be isolated. Located at the community college, citizens will have much easier access. He stated that he also appreciated the Board continuing to look at the multiple meeting spaces. There are multiple groups using the facility, both within the County and outside of the County. There are constant juggling issues with finding space. That is done a lot with one meeting following another.

Commissioner Kost asked that any data sent to one Commissioner be sent to each Commissioner.

Commissioner Kost asked about the "multipurpose" issue.

Chairman Petty stated that that would come in the design aspect of the building and its size. He asked that this be placed on a future agenda to discuss how the facility is currently designed and how it will accommodate the people/committees on the list and decide if it needs to be tweaked.

Charlie Horne spoke on the use of the multipurpose room and asked what kind of capacity seating was needed for a larger room.

Chairman Petty asked Mr. Groce give an average attendance of those attending the meetings from the list he prepared.

Commissioner Kost said that on the preliminary drawings, one side of the building was offices. The back was the big center and there was a quadrant of meeting spaces. She stated that she believes that the four meeting rooms could be made into two larger rooms. She asked if there was a way to take the four and make one large room. This would give the maximum flexibility if something very large was being done.

Mr. Groce stated that they had spoken with the architects about this. One solid wall would be replaced with another "air" wall. Multiple configurations could be made. Mr. Groce stated that the architect stated that there were folding bleachers that could be pushed up into a wall.

Commissioner Bock stated that 300 capacity sounds like a large room; however, if the present room holds 200, it would not be very large.

STATE COLLECTION OF COUNTY VEHICLE TAXES

Request for the General Assembly to hold counties harmless in tax reform:

Frances Wilson, Tax Administrator, explained that the Board of Commissioners recently approved a resolution adopting the NC Association of County Commissioners legislative goals. Two of those goals pertain to pending actions in the General Assembly.

House Bill 30 (HB30) would rescind the soon-to-be implemented collection of county vehicle taxes by the Department of Motor Vehicles when vehicle tags are renewed. This legislation for this collection process was introduced in 2005 and counties have faced an uphill battle getting the system implemented. Finally, the DMV is ready to begin collection in July 1, 2013.

Another goal of the NCACC is protecting county revenues in tax reform consideration. The goal states:

"Protect county revenues in tax reform consideration, support legislation that recognizes the importance of county revenues, and secures existing county resources as the state considers tax reform strategies. The General Assembly will be considering comprehensive tax reform this legislative session. Specifics of these changes to tax statutes are uncertain and likely to be fluid throughout the session. County revenues should be protected in any final outcome."

Several tax reform proposals have been discussed. On its face, the goal appears to ask that county revenues be preserved, and staff agrees with that concept. However, it may not go far enough to ensure individual counties and cities will be held harmless under tax reform. While overall revenues may be preserved in the aggregate, depending on the tax reform proposal adopted, some jurisdictions may win and others lose revenue. We believe any tax reform legislation adopted should hold all cities and counties harmless, meaning that they receive the same amount of revenue or more under the new plan.

Ms. Wilson explained that the State has done all of the costs analysis. It is \$1.69 per bill for them to collect. It will cost Chatham County roughly \$131,000.00 based on the billing of 77,000 annual bills.

Commissioner Kost moved, seconded by Commissioner Bock, to formally oppose House Bill 30 to rescind the State collection of county vehicle taxes and request that the General Assembly hold harmless all cities and counties in tax reform. The request should be sent to the General Assembly, the NC Association of County Commissioners, and the Governor. The motion carried five (5) to zero (0).

Commissioner Kost stated that she was going to personally write each sponsor of the bill and encouraged each Commissioner to do so as well.

CLOSED SESSION

Commissioner Bock moved, seconded by Commissioner Stewart, to go out of Regular Session and convene in Closed Session for the purpose of consulting with the County Attorney on matters within the attorney/client privilege under GS 143-318 11(a) (3) and matters related to personnel. The motion carried five (5) to zero (0).

WORK SESSION

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

ADJOURNMENT

Commissioner Cross moved, seconded by Commissioner Stewart, to adjourn the meeting. The motion carried five (5) to zero (0), and the meeting adjourned at 3:37 PM.

Walter Petty, Chairman

ATTEST:

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

MINUTES
CHATHAM COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING
FEBRUARY 18, 2013

The Board of Commissioners (“the Board”) of the County of Chatham, North Carolina, met in the Agricultural Building Auditorium, 45 South Street, Pittsboro, North Carolina, 6:00 PM on February 18, 2013.

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

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

INVOCATION AND PLEDGE OF ALLEGIANCE

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

CALL TO ORDER

Chairman Petty welcomed those in attendance and called the meeting to order at 6:00 PM.

APPROVAL OF AGENDA and CONSENT AGENDA

Commissioner Kost asked that the Public Input Session be extended from thirty minutes to accommodate all speakers signed up to speak.

Commissioner Kost asked that “Consideration to adopt Board of Commissioners’ Goals” be removed from the consent agenda and placed on the regular agenda for discussion.

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

1. **Minutes:** Approval of Board Minutes for the February 04, 2013

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

2. **Resolution Commending Chatham County Health Department: Resolution #2013-05 Commending the Public Health Department On Its 100 Percent Re-Accreditation Review**, attached hereto and by reference made a part hereof.

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

3. **Health Department Funds Acceptance:** Consideration of a request to accept funds in the amount of \$1,500 from Community Guide Mentoring

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

4. **Health Department Funds Reduction:** Consideration of a request for Family Planning Funds Reduction in the amount of \$2,193

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

5. **Health Department Funds Acceptance:** Consideration of a request to accept funds in the amount of \$14,578 Preparedness Funds awarded to the Health Department from the Epidemiology/Public Health Preparedness & Response

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

6. **Health Department Funds Acceptance:** Consideration of a request to accept funds in the amount of \$7,144 awarded to the Health Department from the Women's and Children's Health Section of the Division of Public Health

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

7. **Health Department Funds Acceptance:** Consideration of a request to accept funds in the amount of \$7,000 from Youth Tobacco Prevention Funds

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

8. **Health Department Funds Acceptance:** Consideration of a request to accept funds in the amount of \$5,214 from NACCHO Food Retail Program Standards Mentorship Program Funds

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

9. **Health Department Funds Acceptance:** Consideration of a request to accept immunization funds in the amount of \$3,073 awarded to the Health Department

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

10. **Budget Ordinance and Financial Policies:** Revisions to Budget Ordinance and Financial Policies, attached hereto and by reference made a part hereof.

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

11. **Request from citizens for the naming of private road in Chatham County as follows:** Josees Ridge Trail Petition

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

12. **Community Development Block Grant:** Community Development Block Grant Scattered Site Housing (2010) and Economic Recovery Annual Reports

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

13. ~~**Board of Commissioners' Goals:** Consideration to adopt Board of Commissioners' Goals~~

This item was removed from the consent agenda and placed on the regular agenda for discussion.

14. **Resolution** Consider a request by the NCDOT to adopt **Resolution #2013-06 for Road Maintenance Abandonment of 0.07 Miles of SR #1527 - Morris Road**, attached hereto and by reference made a part hereof.

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

15. **Nursing Home and Adult Care Home Advisory Committee Appointment:** Appointment of Patrick Murphy to a one-year term ending February 18, 2014 to the Nursing Home and Adult Care Home Advisory Committee

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

16. **Board of Equalization and Review:** Appointment of Lillie Alston as an alternate to Board of Equalization and Review

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

END OF CONSENT AGENDA

PUBLIC INPUT SESSION

Chairman Petty stated that the time limit for the Public Input Session would be extended for one hour after which the time would be reevaluated. He stated that he felt he could safely say that this Board has no intention of adopting a resolution or taking up a position on the Second Amendment issue which has been decided by the Constitution of the United States. He asked that speakers limit their comments to three minutes and move as quickly as possible for the sake of time.

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:

“We will always have evil in this world and is why I support the 2nd amendment.

People have told me directly that I don’t care about gun violence. Not true.

I’ve been a Trauma One Nurse all my life.

I’ve witnessed firsthand of the evil in this world and I do care.

But Commissioner Kost, when I hear an audio of you making statements as ‘I would say we could support a ban on assault weapons’ at your Commissioners retreat for setting goals for the county, it draws my attention.

I know we’ve been speaking about the 9/11 memorial.

When those terrorists entered the cockpit of those flights with razor box openers, if the pilots had been armed they would have been shot when opening that door.

And at Pearl High School a Vice Principal during a school shooting had to run to his car to retrieve his .45 to prevent more killings that day.

At Martin Luther Jr. High School, a basketball coach was escorting his female players to their cars, when a gunman approached them. The Coach had a concealed weapon on his person and shot the gunman.

A college student kills a masked armed home invader at their apartment complex and saves 10 of his friends.

During Katrina, when one politician decided to give an unconstitutional order to disarm citizens going door to door, we’ve seen when they entered law abiding citizens home and taking their weapons, one officer was even recorded smashing one of the guns they confiscated on the curb of the street. This weapon was just taken, not from a violent gang member or looter, but an armed citizen that remained in her home.”

Ben Pistole, 102 Green Meadow Court, Pittsboro, NC, presented his comments to the Board and provided them in their entirety for the record as follows:

“My name is Ben Pistole and I am a resident of Pittsboro. Recently, I read an article in the Chatham County Line. It was an opinion piece written by a Mr. William Sommers. Mr. Sommers stated that:

(Quote) ‘there is a local initiative that should not be ignored – namely – for the Chatham County officials and citizens to have Walmart promise not to sell ammunition or armed units in their newly built enterprise near the county line. This could easily be made a condition of their final approval.’ (End quote)

I’d like to make the Board aware that such measures by the Board are not lawful. NC State Statute (§ 14- 409.40) is called Statewide Uniformity of Local Regulation. It specifically prohibits the county government from regulating the sale of firearms or ammunition.

Due to the opinion article, I sent an email to the Board. I said that I heard there had been some talk about restricting the new Walmart from selling guns. I only got one response, which was from Sally Kost. She stated that she had no plans to make such a resolution. I was glad to hear that. Out of curiosity, I asked her if it was accurate to say that she was not in favor of any gun control.

Sally replied, saying:

(Quote) “*Not exactly. I do favor some of the provisions outlined by our President, but these are national issues, and not a county issue.*” (End quote)

Now, I also took the time to check out the recorded audio from the January 23rd Board of Commissioners retreat. The Board was talking about some high level goals for the county. When the discussion turned to safety, Sally, made the following comment at the 11:40:40am time mark:

(Quote) “*I would say we could support a ban on assault weapons but I didn't think I'd get the votes so I left that one off but if I had my way it would be up there.*” (End quote)

That seems rather inconsistent from her comments to me in an email when she said that gun control was a national issue and not a county issue.

Maybe you, Sally, changed your mind between the Board retreat and when you discussed it with me. But I just want to let you know that I like your email comment a lot better than the one you made at the retreat.

I would urge the Board to keep its role in governance in proper perspective. My 2nd Amendment rights are important to me, and I for one will remain diligent in order to protect those rights by participating in public sessions like this one.

Some of my neighbors might not feel the same way I do. To them I would say that limiting the ability of a law-abiding person to purchase a firearm or ammunition isn’t the answer. That would not address the root causes of crime. We should be focusing on enforcing the laws we already have instead of talking about further restrictions on law-abiding citizens.

Commissioner Kost stated that she supported many of the provisions of the President and the President addresses assault weapons. She stated that she didn’t see where that was inconsistent.

Mr. Pistole replied that he did see the inconsistencies. He stated that Commissioner Kost stated it was not a County issue; that gun control in general was not a

County issue. In her statements from the retreat, he stated that she that she would do it if she had the votes, but since she didn't have the votes, she wouldn't do it, and if it was up to her, it would be on there."

Linda Bienvenue, 331 Cobble Ridge Drive, Pittsboro, NC, presented her comments to the Board and provided them in their entirety for the record as follows:

"Good evening Commissioners,

My name is Linda Bienvenue, and I live at 31 Cobble Ridge Drive, in Pittsboro.

I would like to thank you for the opportunity to speak before you tonight. I wish to address the board on two issues.

The first is the new WalMart that will be opening soon in northern Chatham County. As a resident of Chatham County, I am delighted to have another place to shop that will also provide jobs and taxes for Chatham County. Although I can't guarantee that I will frequent the store on a daily basis, it is good to know that I have another choice in where to shop.

This is what is so exciting about free-market capitalism - giving private businesses the opportunity to sell to you and serve you in the community. This enables me, as the consumer, the ability to decide whether or not to go there with my business. There should be no interference with that.

On that note, I will move on to my second point, as they are interrelated. Rumors come and rumors go; however, there usually is a modicum of truth to most of them. There has been a rumor circulating that the County is seeking to 'discourage' WalMart from legally selling rifles and ammunition in their store.

I will begin by addressing this as it applies to my Second Amendment Rights. We, the people, in the United States of America were given the right to keep and bear arms. Included in that right is the ability to purchase firearms and ammunition.

Legitimate gun ownership is different things to different people. There are the hunters who use rifles to shoot game for food or sport. There are competitive shooters who use semi-automatic pistols and/or rifles for competition. However, any gun owner also knows that his/her firearm will protect them from an unwarranted attack on their homes or their families. Legitimate gun owners also recognize the responsibility of gun ownership.

In the 2008 case, 'District of Columbia vs. Heller', the Supreme Court definitively came down on the 'individual rights theory' confirming that the rights of the Second Amendment adhered to individuals. The court in that case also accepted that the phrase 'keep and bear arms' extended beyond the context of militia service to include self-defense by 'able-bodied men'.

Gun owners who have chosen to speak to you tonight are legitimate, responsible, law-abiding citizens who have chosen to own firearms. Prohibiting them from shopping for their firearms or ammunitions where they chose is not only unconstitutional, it is un-American.

Thank you."

Kevin B. Williams, 1972 Jay Shambley Road, Pittsboro, NC, presented his comments to the Board and provided them in their entirety for the record as follows:

"Good evening. I'd like to thank everyone here for giving me the opportunity to voice my opinion about the Board of Commissioners' recent proposal to stop the sales of guns and ammo at the new Walmart on 15/501 at the County Line. I feel that restricting

the sale of guns or ammo, by a merchant, affects my ability to have access to discount shooting products at a competitive rate.

Chatham County is basically a rural county. Being a rural county, a lot of rural activities transpire here. The shooting sports are one of those activities that regularly occur in our county. That was one of the primary reasons for me selecting Chatham as my home for the past 20 years. I am a hunter and a shooting enthusiast, as I'm sure a lot of my neighbors can attest to. Ha! I own and live on 40 acres of land and safely shoot whenever I feel like it. One would say, shooting is part of my life.

I'm not a nut! I served my country for six years in the US Army and was honorably discharged. I work for a police Department in Chapel Hill. I have worked in and around law enforcement for over 20 years of my life. I carry a CCW permit and feel confident that if the need ever arose I would be able to defend myself or possibly one of you against evil of the worst kind. Needless to say...I'm highly involved with the shooting sports. All of these activities are guaranteed under the 2nd Amendment of our Constitution.

Since I work in Chapel Hill, I was looking forward to stopping off and purchasing ammo occasionally on my way home from the Sporting Goods department at the new WalMart. I was shocked to learn that the Chatham County Board of Commissioners is trying to eliminate a source for where I or others may purchase our shooting supplies. I take these actions from our commissioners as part of a hidden agenda to slowly eliminate the access to guns and ammo everywhere. You may have good intentions, but you are very naïve if you think we are going to stand by and let our elected officials erode our rights.

I'm getting pretty fed up with politicians trying to dictate to us just exactly "who" should be able to exercise their right to keep and bear arms. I never thought in a million years that Chatham County commissioners would ever consider restricting individuals from buying guns or ammo by stopping stores from selling them. I take that action as a direct and unlawful infringement upon my rights as a citizen of the United States of America and a resident of Chatham County, NC.

At a time when most counties across the state are banding together and standing up to the unlawful attacks against our rights, I'm truly saddened that I personally need to worry about my shooting rights here in Chatham County. OMG! Are you kiddin' me?!!!!"

John Shirley, 180 Autumn Chase, Pittsboro, NC, presented his comments to the Board and provided them in their entirety for the record as follows:

"I have stood silently by and watched as progressive liberals have attacked everything I hold dear about this country. And now we have a concerted effort to erode our constitution by an organized attack on the Second Amendment. I can remain silent no longer.

I can still recall my first gun purchase. From an ad in a magazine, I purchased an old German Mouser. I sent off my money order and in due time, I received my rifle. No background checks, no registration, no license. Our mail carrier delivered my gun. Guns were freely available to everyone and I rarely heard of any murders and certainly not mass murders. There was virtually no gun control at that time and very little gun violence. I grew up with guns as a boy. In the Army, I carried a gun for a year in VietNam. Within two years of returning from VietNam, I carried a gun as a State Trooper for 8 years. After that, I carried a gun for 25 years as a Special Agent with the Treasury Department. I have made hundreds of arrests and seized scores of guns from criminals. I cannot recall a single incident in which a gun seized was purchased through legitimate channels. My experience has taught me that GUNS do not kill people, PEOPLE kill people.

Our problem today is not about guns, our problem is societal. We live in a permissive society that has removed God from our schools, promotes immorality and violence in the movies, television and on computers every minute of our lives. And we all refuse to accept responsibility for our own failures in raising our children to be responsible adults and prefer to lay the blame for a violent culture on an inanimate object! We do that, because we do not want to accept responsibility for our own failures, so we blame the gun. As a soldier, Florida State Trooper and later as a Special Agent, I swore to protect and defend the Constitution. Therefore I can no longer stand silently while our Constitution is attacked by the uninformed and misinformed. I request the County Commission pass a resolution refusing to support or enforce any Federal or State law which contravenes or weakens our Constitution. I implore you to act before it is too late. Honor our Constitution. God bless America!"

Russell Poole, 387 Hudson Road, Siler City, NC, stated that he supports the Second Amendment. He stated that he wants to keep it going and wants to see our country grow and be an example for everybody else. He stated that he protects his family that way and wants to keep the Second Amendment to protect his family and his future.

Arthur A. DeLuca, 42 Caswell, Pittsboro, NC, stated that he spent thirty-one years in law enforcement and attained the rank of chief of police. He responded to the Twin Towers on 9/11 for a rescue, and was on the George Washington Bridge. The bridge was shut down in order to answer stacked calls. He stated that everyone recognizes the horror that happened in Connecticut.

He stated that in 1927, Andrew Kehoe who lived in Bath Township, Michigan, was an American farmer and treasurer of his township school board.

While on the school board, Kehoe was appointed as the Bath Township Clerk in 1925 for a short period. In the spring 1926 election, he was defeated for the position, and was angered by his public defeat. He killed his wife and 43 other people (including 38 children), and injuring 58 people by setting off bombs which he had secretly bought and planted in the basement of both school wings over the course of many months. The second 500 pounds of explosive, in the south wing, did not detonate, so part of the school was not destroyed.

As rescuers started gathering at the school, Kehoe drove up, stopped, and detonated dynamite by shooting his rifle inside his shrapnel-filled truck, killing himself and the school superintendent. During the rescue efforts, searchers discovered an additional 500 pounds of unexploded dynamite and pyrotol planted throughout the basement of the school's south wing, connected to an alarm clock that was supposed to act as the detonator and set for the same time that morning of the two other explosions.

He stated that he was for the Second Amendment as he has seen much violence in his 31-year career. The Constitution and Bill of Rights was signed to protect our rights to bear arms and own firearms. He stated that to take his rights as a private citizen and have his hand guns confiscated so that he could no longer defend his family he feels would not be looking at the total picture. He doesn't see anyone addressing the violence in Hollywood. He thanked the Board for taking this into consideration.

Greg Cooper, 475 River Bend Road, Siler City, NC, presented his comments to the Board and provided them in their entirety for the record as follows:

"I'd like to express my appreciation to the board members for their solicitation of voters input.

Please allow me to introduce myself. My name is Greg Cooper, I've been a resident of Chatham County for 43 years. My family has deep roots in Pittsboro. We have raised our children here, and participated in the private, church and business community. We have been involved in the growth and support of our county.

I would like to comment on the intentions of fellow residents to curtail or limit the right of law abiding citizens to protect themselves and their families.

We are all terribly saddened by the recent events in our history, evil run rampant, moral decay and violence. Yet we all know the trend is on the increase. For this reason I chose to educate myself. I'm a nationally certified firearms safety officer, a concealed carry weapon permit holder, firearms enthusiast and a member of 3 outdoor clubs that promote safe and responsible firearm ownership.

It is my belief that I have a responsibility to protect myself and loved ones, given to me by GOD and affirmed by the Bill of Rights. I further believe that while I respect the wishes of others, and support their right to an informed personal decision, they do not have the right to make that decision for me or my family.

Some well-meaning residents will submit to you the major problem with our society is the availability of firearms. They believe that by passing a statue on a piece of metal or plastic, it will magically remove evil from man's hearts and render our populace safe.

I reason that laws only apply to the law abiding. Evil exists and is on the rise. A red circle "gun free zone" decal is of no consideration to those in our society that want to cause peaceful people harm. I reason that limiting or eliminating the ability of law abiding citizens to protect themselves and their family will only give evil an upper hand.

So I ask you for this consideration, allow others to decide if safe, responsible firearm ownership is for them. But do not make that decision for me, for I have already decided. Thank you."

Donald Carek, 50201 Manly, Chapel Hill, NC, presented his comments to the Board and provided them in their entirety for the record as follows:

"Listen, I understand the position that the commissioners are in.

They are really hearing the outcry for business control in our county from business owners.

Yes, this will impact current business owners, but you have a responsibility to your constituents.

With price of goods and services lately, your constituents need businesses that will help with lower prices.

The county needs the help through revenue generation.

We need the employers, revenue, and an environment that will bring business and traffic to Chatham County.

Trying to control new employers from conducting business here when similar businesses exist will only create law suits and settlements that the county CAN NOT afford."

James Duncan, 622 Royal Sunset Drive, Durham, NC, presented his comments to the Board and provided them in their entirety for the record as follows:

"We support the efforts of our County's first Responders for a monument honoring the heroic and historic efforts by fellow first responders on September 11th 2001. On that day America and our freedoms were so viciously attacked by evil. I know you have decisions concerning the county's involvement in this monument.

However, I wish to comment on what I consider to be "polluted language" surrounding this structure.

Over the last few weeks in this room and in our newspaper we have heard from citizens that this monument and our first responders effort.

1. "Is a piece of trash"
2. "Represents torture"
3. "Made America do evil acts"
4. "Represents war" AND
5. The old reliable "it's a Bush-Cheney" thing

This language is offensive and intended to offend. The temptation to respond to these folks in kind is strong, but quite frankly it is not worth it.

I have spoken to many other citizens throughout our community. Here is what they say:

1. Chatham citizens are honored by this award to our first responders
2. It represents America's resilience
3. It will remind us every day of our own first responders' daily sacrifices.
4. No generation should ever forget.
5. The monument is a relic

I urge the Board of Commissioners to be sensitive to the decisions surrounding this monument. I trust you will do what is correct for our community and not be driven by the squeaky wheel that would prefer to elevate divisiveness and conflict above sacrifices made to keep us all free.

The Republican Party stands up for our first responders."

Francis G. Peck, 318 Asbury Church Road, Sanford, NC, stated that he strongly opposes any movement from the Commissioners to limit the freedom of private enterprise in the County. He stated that President Obama swore that he would uphold the Constitution to which he plans to hold him accountable. People in the military and law enforcement do the same and he plans to do the same. He doesn't think anyone likes violence, but the Second Amendment is in place and there for a reason. He stated that while he was reviewing the Constitution, he thought that it was a framework for freedom. It protects us. It protects us from people who make laws to encroach on our freedoms. It is a free society. God bless America.

Bill Crawford, 44 Hawk's Spiral Way, Pittsboro, NC, stated that he was told that there was a proposal in the works to ban the new WalMart from selling guns and/or ammunition. He stated that they didn't trust the government to respect the Constitution that grants its power. To those who would advocate such a thing for WalMart, why isolate them? If there is enough of a problem to warrant a County-wide ban, isn't this a solution in search of a problem? If there is a problem with gun crime, there are clearly things that don't work. Don't bother with WalMart. The criminals don't get their guns there. Don't bother with handouts of cash and toys in return for turning weapons into the police. That doesn't work either. Even if one is a troubled young man having a psychotic break, there will still be enough of an understanding to know that a sign that proudly declares gun-free zone means "I get to do what I want till the cops show up." What does work is chasing after human behaviors and law breakers. He stated that he knows this because he worked it in New York City. He watched it work during the time Mayor Giuliani reformed the way police work. They forced the police precincts to

develop their own plan for lowering crime rates. If they didn't work, they changed the watch commanders. They raised the penalties for the use of guns in crimes. They stopped being too busy to deal with little things like littering and turnstile jumping. They forced the cops to get out of their cars and police the streets. None of it happened because the chased after certain types of weapons or ammunition. It was all about human behavior. There are answers to these problems. There are people posing the answers, and the people who are doing it are not being listened to right now.

Tom Rhyne, 1007 Swandon Court, Apex, NC, presented his comments to the Board and provided them in their entirety for the record as follows:

“Thank you for the opportunity to speak to you this evening. I am here to represent for the record our GRNC Chatham County members as well as my own personal position on these proceedings.

It has come to our organization's attention that one or possibly more of the Chatham Commissions has or is proposing to submit for adoption rules or regulations that will prevent a Wal-Mart from their normal business operation of firearm sales. Let me take this opportunity to strongly remind the Chatham Commissioners of NCGS 14-409.40 State-wide uniformity of local regulation.

(a) It is declared by the General Assembly that the regulation of firearms is properly an issue of general, statewide concern, and that the entire field of regulation of firearms is pre-empted from regulation by local governments, except as provided by this section.

(a1) The General Assembly further declares that the lawful design, marketing, manufacture, distribution, sale, or transfer of firearms or ammunition to the public is not an unreasonably dangerous activity and does not constitute a nuisance per se and furthermore, that it is the unlawful use of firearms and ammunition, rather than their lawful design, marketing, manufacture, distribution, sale, or transfer that is the proximate cause of injuries arising from their unlawful use. This subsection applies only to causes of action brought under subsection (g) of this section.

(b) Unless otherwise permitted by statute, no county or municipality, by ordinance, resolution, or other enactment, shall regulate in any manner the possession, ownership, storage, transfer, sale, purchase, licensing, or registration of firearms, firearms ammunition, components of firearms, dealers in firearms, or dealers in handgun components or parts.

(c) Notwithstanding subsection (b) of this section, a county or municipality, by zoning or other ordinance, may regulate or prohibit the sale of firearms at a location only if there is a lawful, general, similar regulation or prohibition of commercial activities at that location. Nothing in this subsection shall restrict the right of a county or municipality to adopt a general zoning plan that prohibits any commercial activity within a fixed distance of a school or other educational institution except with a special use permit issued for a commercial activity found not to pose a danger to the health, safety, or general welfare of persons attending the school or educational institution within the fixed distance.

(d) No county or municipality, by zoning or other ordinance, shall regulate in any manner firearms shows with regulations more stringent than those applying to shows of other types of items.

(e) A county or municipality may regulate the transport, carrying, or possession of firearms by employees of the local unit of government in the course of their employment with that local unit of government.

(f) Nothing contained in this section prohibits municipalities or counties from application of their authority under G.S. 153A-129,160A-189, 14-269, 14-269.2, 14-

269.3, 14-269.4, 14-277.2, 14-415.11, 14-415.23, including prohibiting the possession of firearms in public-owned buildings, on the grounds or parking areas of those buildings, or in public parks or recreation areas, except nothing in this subsection shall prohibit a person from storing a firearm within a motor vehicle while the vehicle is on these grounds or areas. Nothing contained in this section prohibits municipalities or counties from exercising powers provided by law in states of emergency declared under Article 1A of Chapter 166A of the General Statutes.

(g) The authority to bring suit and the right to recover against any firearms or ammunition marketer, manufacturer, distributor, dealer, seller, or trade association by or on behalf of any governmental unit, created by or pursuant to an act of the General Assembly or the Constitution, or any department, agency, or authority thereof, for damages, abatement, injunctive relief, or any other remedy resulting from or relating to the lawful design, marketing, manufacture, distribution, sale, or transfer of firearms or ammunition to the public is reserved exclusively to the State. Any action brought by the State pursuant to this section shall be brought by the Attorney General on behalf of the State. This section shall not prohibit a political subdivision or local governmental unit from bringing an action against a firearms or ammunition marketer, manufacturer, distributor, dealer, seller, or trade association for breach of contract or warranty for defect of materials or workmanship as to firearms or ammunition purchased by the political subdivision or local governmental unit. (1995 (Reg. Sess., 1996), c. 727, s. 1; 2002-77, s. 1; 2012-12, s. 2(z).)

Finally; on a personal note, I have been looking at property in Chatham County that is for sale that I may purchase and the direction of future decisions by the Chatham County Board will have to weigh on my decision pending the outcome of this or subsequent meetings.

Thank you for your time for me to address our concerns to you.”

Brett Kelly, 553 Holly Glenn Road, Pittsboro, NC, stated that he was retired from the Army, an FFL holder, and carried a concealed carry permit holder. He stated that he is currently studying gunsmithing at Montgomery Community College. It is totally illegal to require WalMart to not sell firearms. WalMart has been providing low-cost, decent quality goods for quite some time. If the Board was to deny the availability of firearms, it would essentially be promoting an entire class of people and denying them their best means of defense against an armed assailant. With regard to assault weapons, weapons have been a part of mankind since we learned to walk upright. It is not possible for a weapon to be an assault weapon as an assault requires intent. An inanimate object cannot have intent, only a human being or animal can. Only a human being can use a firearm. There can, therefore, be no such thing as an assault weapon. There are only weapons used in assaults by evil people. They have to be defended against using at least equal, if not superior, fire power.

John Olexa, 327 Cabin Creek, Pittsboro, NC, presented his comments to the Board and provided them in their entirety for the record as follows:

“Subject: Support of 2nd Amendment, my constitutional Right to Bear Arms.

Purpose: Provide my personal views on 2nd Amendment, based on my 25 year career as an FBI Agent, with assignments in many parts of the U.S.

Personal Views: Strong supporter of 2nd Amendment because: A) Constitution All My Right to Own a Gun; B) I enjoy shooting as a sport, I want to protect myself, my family, my property and others if in need of assistance.

Criminal Types: Many murders in large cities, not covered by N2T-News. 1) Street thugs with needs to support drug addictions; 2) Organized street gangs, extremely violent, gang wars, drug trafficking, automatic weapons, etc. 3) Organized crime (COISA

NOSTRA Types) appear more business oriented, drug trafficking, money laundering, etc. also very violent. 4) Domestic & Foreign Terrorist; Mexican Drug Traffickers.

Above Criminal Types (Important): They do not purchase weaponry legally with police checks. They purchase on streets stolen weapons they steal, pawn shops, illegal imports.

Imp.: The prevention of retailers of gun / ammo sales will only hurt law abiding citizens, with no impact on street thugs.

Those In Opposition to 2nd Amendment: God forbid you're assaulted some night by a street thug in a strip mall parking lot and at the mercy of the thug; I've probably been involved in such cases, with women being raped and murdered.

Very complex issue – criminals – mass murderers: Covered by N2T News: Chooses 17 mental instability, raised in atmosphere of violence, video games, movies and in many cases break-down of family. No respect for human life and respect for authority.

A gun is like a parachute. If you need one and don't have one, you probably will never need one again."

Nick Robinson, 128 Hillsboro Street, Pittsboro, NC, presented his comments to the Board and provided them in their entirety for the record as follows:

"Good evening Honorable Board members. My name is Nick Robinson. I practice law at Bradshaw & Robinson, LLP in Pittsboro at 128 Hillsboro Street.

My comments tonight will be very brief and mainly in the form of an appreciation to the Board, County Staff and the County Sheriff's Office for their respective roles in the approval, construction and opening of the amazing new Justice Center for Chatham County.

I have entered it as a gawker. I have been to the Clerk's office for business. I find it to be astonishingly beautiful and functional well beyond my wildest expectations developed as a civil attorney practicing here for 17 years.

It is an amazing accomplishment and a terrific monument to hard work, diligent fiscal management and awareness of a long-standing need.

I guess my clients are just too reasonable and level headed as I have no cases ready to be tried in Civil Superior Court. But I know that when I do, our resources will be state of the art.

I have also thought some as a member of the zoning and land use Bar in Chatham County about Commissioners meetings. I remember those meetings in the old courthouse with terrible microphones, folks struggling to hear and be heard, etc. In seeing the video and audio technology in the new Justice Center I became slightly envious. As you work towards completion of the old courthouse renovation, I do ask that, if it is not already in the plans, you work to include similar video and audio technology for these meetings to be held in the renovated Courthouse. Thanks."

Larry Ballas, 139 Indian Creek Lane, Apex, NC, stated that the whole issue of guns, ammunition, WalMart, etc., is political. Assault guns are already illegal in this country. One cannot buy assault guns. They are semi-automatic. It comes down to politics and using words that scare people. If someone doesn't know what they are talking about, they shouldn't talk about anything. There were a lot of murders over the last few years with a lot of statistics done. Only 1-2% of murders that took place in this country were done by assault weapons or semi-assault weapons. There were more people killed by hammers, bats, etc. than by guns. The federal Constitution has the Second Amendment which is very important. The amendments that were set up were done so in

the order of their importance to people. The Second Amendment allows people to bear arms and protect themselves. More importantly, the State of North Carolina also has a constitution which lists the right to defend ourselves. The more important issues have to do with our rights to vote people into office in order to maintain the Constitution. In addition to that, the most important person in Chatham County is the Sheriff. If President Obama decided to come here and he did something wrong, the Sheriff would have the power to arrest him and put him in jail. That is important to remember because County government is where government starts. It is not on the federal level. The federal level is trying to take over our rights on the local level and we have to stop them. He requested that the Chatham County Sheriff come up with a statement guaranteeing our Second Amendment rights of the Federal Constitution and Section 30 of the State Constitution the right to bear guns. The only person more important than the County Sheriff is the coroner.

Mark Cares, 8009 Pittsboro-Goldston Road, Bear Creek, NC, stated that for the last few years, he has worked in Texas, Pennsylvania, New Mexico, North Dakota, and Louisiana. He stated that he had been fracking. He has walked between the pumps, hooked up the chemical totes, been there when they have gone down hole, whether it was 6,000 or 10,000 feet. He stated that he knows shortly there will be a meeting here about fracking and he will be in North Dakota. He stated that he has lived here for the past seven years. He used to work here, but work has taken him away. He stated that he wanted to let the Board know that there is a lot of misinformation out there. He stated that he has personally done it, has seen the chemicals, met people from around the world; they are fracking in Australia, China, Russia, and Canada. He has met people from other parts of the United States. One of the things they talk about is how fracking destroys the environment. Last November, Michigan defeated a measure to stop fracking in Michigan by 67%. The reason it was defeated is that the environmentalists lied. They said it would destroy the environment, cause thousands of deaths, and property damage. People said that they had 9,000 wells in this state from 300 feet below the surface to 2,000 feet below the surface. Since the 1970's, they have fracked 9,000 wells, not below the water table, but in and above the water table. The state still stands. Thousands of people have left the state, but that is because of the former government there. They are now going for oil in eastern Michigan and eastern Ohio. He asked that before the Board acts, he would be glad to talk with them.

Steve Sands, 1357 Jay Shambley Road, Pittsboro, NC, stated that there is evil in the world and the right to defend ourselves should not be taken away. He stated that the people tonight are speaking with a suspicion that some change was going to occur. We need to remember that it's not the guns that kill, it's the people who do. Society, where the problems are, needs to be addressed. He stated that we hear about the ban on assault weapons, but as he understands it, when the right to bear arms occurred, those were state-of-the-art weapons that citizens were able to maintain. He asked the difference between the guns then and now. He stated that there is a Confederate soldier standing in front of the historic courthouse holding a stout rifle. He thinks that was probably state-of-the-art when he was a citizen soldier. He asked if there is a way to take the proceedings from the night's meeting and send it to the State in order to be able to address any changes that are suggested from the federal level so that they can be addressed and the feelings of Chatham County residents made known.

PLANNING AND ZONING

Public Hearing

Raleigh Towers, LLC Request to Construct New Cell Tower:

Jason Sullivan, Planning Director, explained that this is a request by Raleigh Towers, LLC to construct a new cell tower on Parcel #19952 known as the Old Chatham Golf Club, located off O'Kelly Chapel Road across from Nickel Creek Circle. The lease area will be approximately .27 acres of the 403 acre tract and is located within the Joint Plan Area of Chatham County and Cary, Williams Township.

The Chairman opened the floor for public comments.

Matthew Danielson, 716 Quartz Chrystal Place, Cary, NC, applicant, stated that he would be glad to answer any questions.

Commissioner Kost asked if Mr. Danielson was going to erect a tower on which many different cell companies would rent space. Mr. Danielson replied that was correct.

Commissioner Kost asked if he had negotiated with any particular companies for cell tower use. Mr. Danielson stated that he had been given approval by AT&T to say that they will be the anchor tenant.

Commissioner Kost stated that was important because citizens need to make decisions based on where they will receive the best service.

Commissioner Bock asked, assuming that everyone goes well with the approval process, what is the most optimistic time frame expected to see a tower. Mr. Danielson replied this spring.

Commissioner Kost asked if any other towers had been constructed that looked like this one. Mr. Danielson replied not like a stealth-tree with Raleigh Towers; however, he has been in the telecommunications industry since 1996 and he had done stealth applications. He explained that it is a great location. A second community meeting was held at Amberly.

Commissioner Kost asked how far the service will be increased. Mr. Danielson explained that more people are using their phones for data rather than voice. A lot of people do not now have a land line. It has caused a log jam. Instead of having towers every three miles, we need towers every one and a half miles. They can be shorter in some cases, but more towers are needed in an optimal in a suburban setting.

Commissioner Kost asked how many feet the County's ordinance allowed. Mr. Danielson replied 199 feet.

Francie Henville-Shannon, 1420 Marsalis Way, Cary, NC, stated that she lives less than a quarter of a mile from the proposed cell tower. She asked that the Board approve the tower and that it be put in as quickly as possible. She stated that there will be 1,350 homes in her community when it is finished. With regard to the former speakers talking about the Second Amendment, she stated that if someone with their Second Amendment rights have their gun in hand and enters her house, she would like to be hiding in the closet with her cell phone so that she can call and get someone to answer.

Jim Elza, 110 Christow Court, Cary, NC, stated that he lives in this neighborhood and the 150 foot stealth cell tower is in a good location and it will serve an area that is ready for service now.

Commissioner Kost stated that she received approximately 15-20 emails in support of the cell tower. She complimented the applicant for working with the people of the community.

The Chairman closed the public comments session and referred this item to the Chatham County Planning Board.

Westfall Associates, LLC and Charles & Janet Meyers Request:

Jason Sullivan, Planning Director, explained that this is a request by Westfall Associates, LLC, and Charles & Janet Meyers on Parcel #20092 and other parcels that make up the Westfall Subdivision (formerly Booth Mountain), located off Lystra Road, and Jack Bennett Road, Williams Township, for a conditional use permit (CUP)

amendment to add approximately 14.071 acres and 62 lots and decreasing the overall footprint by at least 23 acres through a redesign of the lots and lot sizes.

(Planning Board meeting information may be seen in BOLD, Italics below)

A quasi-judicial public hearing was held on this request November 19, 2012. Planning staff presented the request and Attorney Nick Robinson spoke on behalf of the applicant. Also speaking for the applicant were Mark Ashness, Randall Stevens, David Gainey, Colin Davidson, and Joe Faulkner. Also speaking were Jenny DeLoach, Peter Theye, Leila Weeble, and George Lucier. Concerns were raised regarding traffic, tree removal, not utilizing local builders, the need for new conditions to ensure the environment would not be damaged, and disappointment no representative from the school was present to discuss the use of the wastewater treatment plant (WWTP) in the future.

The Planning Board met at their regularly scheduled meeting on January 8, 2013. Planning staff noted the applicant and planning staff agreed to postpone the Planning Board review for one month to allow the applicant time to prepare the subdivision revised master plan map submittal. This allowed the two requests to be considered simultaneously.

Westfall, formerly Booth Mountain, was originally approved as a 294 acre PUD in 2005 for 180 lots. 94 lots have received final plat approval which leaves 148 to be designed and platted. Within the first phase of development, all roadways and utility mains have been constructed. Water will continue to be served by the county and sanitary sewer will continue to be provided by Aqua NC. During the first phase of construction, there were several issues that arose from non-compliant erosion control measures and those violations have been corrected. This was one concern raised at the public hearing.

During the public hearing, testimony was provided that addressed various concerns raised by several speakers. Those issues are discussed below under the appropriate finding of fact.

In order for a matter to be considered for approval, there are five findings that must be addressed and proof given that each one can be supported. Should one condition not be supported, the application should be denied. Conditions may be placed in order to achieve a mutually agreeable alternative between the governing body and the applicant in order for the finding to be made. The five findings are addressed below.

FINDING #1 - The use requested is among those listed as an eligible conditional use in the district in which the subject property is located or is to be located. Planned residential developments continue to be a conditional use within the R-1 Residentially zoned district provided the standards can be met. It is planning staff opinion these standard requirements for permitting a PRD still exist and therefore this finding is supported.

FINDING #2 - The requested conditional use permit is either essential or desirable for the public convenience or welfare. It was determined in 2005 this use was needed and subsequently approved. When development began with the recording of the first 94 lots is when the housing market declined. The previous owners filed bankruptcy and abandoned the site. The current owners purchased the property and have begun taking measures to redesign the site to make it more marketable to ensure a sound development. Construction on infrastructure has also resumed in the development, as well as the construction of several homes. Additional open space; new housing options to reach a larger market; and the addition of a walking trail, playgrounds, and an amenity area are being provided.

FINDING #3 - The requested permit will not impair the integrity or character of the surrounding or adjoining districts, and will not be detrimental to

the health, safety, or welfare of the community. The applicant is requesting an increase in the total number of lots from 180 to 242. The net land area computation provided in the application shows that a total of 262 units are allowed.

The riparian buffers for the water features in the proposed layout will meet the current standards in the Watershed Protection Ordinance, which have been revised since the original conditional use permit approval. An additional 14.071 acres is also being added to the overall development, which will increase the overall site size to 308.4 acres. By redesigning some areas, a higher density development footprint will be created as seen in Section B that will increase open space from 108.81 acres to 143.95 acres.

A 50 foot wide perimeter buffer around the entire development will remain. In addition, properties near Herndon Creek, adjacent to the Booth Hill Subdivision, will also be further protected by an additional 74 feet of no-build area.

Traffic was a concern raised at the public hearing. An updated report from Ramey Kemp & Associates was provided with the application stating the build out of the development is not expected to have any significant impact for residential use. There are proposed roadway improvements on Jack Bennett Road for a new high school in the future. However, the second phase of those improvements, which will consist of a signalized intersection at the drive for the school and Jack Bennett Road, will not be constructed until after the build out of the development.

Planning staff reviewed the findings of fact and the board heard supporting testimony from the applicant and allowed concerns to be stated by three (3) citizens. Some concerns that were raised were hunting on game lands adjacent to the development, traffic, easement for utilities, and odor control from the WWTP. Jennie DeLoach, Lila Webster, and Pierce Cassidy all voiced concerns. Ms. Webster was against the development as a whole.

Nick Robinson, attorney for the applicant, stated NCDOT and Kimley-Horn and Associates conducted revised traffic studies and found there to be no adverse affects due to the proposed reconfiguration of the development or the addition of lots. NCDOT has noted there is a plan in place to redesign a portion of Jack Bennett Road in order to straighten out the curve closest to the entrance to the development. This will help in alleviating a potential hazard in that area.

Mr. Robinson also noted that an EIA (Environmental Impact Assessment) was conducted as part of the subdivision requirements and followed newly adopted regulations in the zoning ordinance. Additional streams and wetlands were found and have been buffered accordingly to ensure further protection of those areas.

The amenity area is still proposed in the development. One correction from the submitted materials is the amenity area will be relocated to the "North" side of Herndon Creek, as shown on the site plan, and not the "South" side as described in the text. A walking trail is also proposed from Section C to the new amenity area. Permits required to cross the creek will be obtained by the appropriate agencies.

Planning Board member, BJ Copeland, had a general concern over the allowance of hunting on the adjacent game lands. He asked if the Wildlife Commission could be asked to allow for archery only or if they would consider disallowing hunting all together in that area of the land.

FINDING #4 - The requested permit will be consistent with the objectives of the Land Use Plan. The development will continue to meet the Land Conservation and Development Plan as previously determined through its approval. The protection of surface waters may be better protected by the revised site layout as submitted. There will be more open space between the lot boundaries and the setback areas of the surface water features. There is also an increase in open space and a decrease in overall impervious surface than the currently approved site plan. The developer plans to increase the use of

reclaimed water to be used for spray irrigation purposes as encouraged on Page 45 of the Plan.

FINDING #5 - Adequate utilities, access roads, storm drainage, recreation, open space, and other necessary facilities have been or are being provided consistent with the county's plans, policies, and regulations. Chatham County will continue to provide water for the development and Aqua NC will maintain the wastewater treatment facility and collection system. Stormwater and erosion and sedimentation control measures will be permitted and comply with current regulations. NCDOT has approved the subdivision road connections to the existing NCDOT roads and improvements for two of the three have been completed. The developer is working with NCDOT on the third entrance with NCDOT providing Spot Safety funds to further improve a section of Jack Bennett Road.

Mr. Robinson stated there is a 30' foot utility easement on the site to serve the WWTP. A question was raised as to when it was permitted and Mark Ashness with CE Group stated the easement was originally to go to Governor's Club to service a new school. This was done prior to the Booth Mountain Development.

The Planning Board voted 10-0 to approve the request.

It is planning staff and Planning Board recommendation to approve the request. Should the Board of Commissioners approve this application, a consistency statement on how this request complies with the Land Conservation and Development Plan should be stated and approved in a separate resolution. The Planning Board recommended by vote of 7-3, the following consistency statement:

"The request is consistent with the Land Use Plan".

Should the Board of Commissioners recommend approval, the Planning Board and staff have provided a set of conditions for review to be included in the approval. They are:

Site Specific Conditions

1. Buffers and setbacks shall be as set forth on the Perimeter Buffer/Development Setback Exhibit approved herewith.
2. With regard to the "no-build" areas (between the rear lot line and the edge of the building area) as shown on the submitted site plan, a restriction will be put in place that will allow homeowners to clear such areas only with hand tools (effectively limited clearing to underbrush and removal of dead vegetation) and disallowing grading.
3. The wastewater treatment plant will be a concrete facility with the blowers being enclosed. The developer will install an aerator in the wastewater treatment plant storage pond. Further, the developer shall use odorphos or other equivalent chemical agent, a chemical addition, at the pump station in order to minimize odors.
4. The roads in the development will be private, but will be built to the NCDOT standard. Private roads may be gated, provided access is made available to emergency vehicles.
5. The developer has created an easement for a trail from the village area to the school site as shown on Plat Slide 2008-97. The installation of such trail will be contingent upon agreement by the Chatham County Board of Education.
6. The developer shall erect signs along the mutual boundary with the US Army Corps of Engineers. Said signs shall be placed at sufficient intervals to be visible from a distance of 75 feet. The signs shall provide warning of adjacent Game Lands which allow archery hunting only at this time. On one side the signs shall warn of hunting in the area and on the other side warn of residential development nearby. Said signs shall be of a size and height to be easily seen and of all weather materials such as metal painted traffic control signs. Said signs shall be posted prior to final plat approval. The final plat shall display a note disclosing adjacent Game Lands which allow archery hunting only at this time.

7. All street lighting shall comply with the Chatham County Zoning Ordinance, Section 13 to minimize light pollution and light trespass. The development's covenants shall also require residential lighting to meet said provisions.
8. The developer and Aqua NC shall negotiate with the Chatham County School Administration to determine if an agreement can be reached regarding school site wastewater treatment and storage.

Standard Site Conditions

9. The application, standards and adopted regulations of the applicable ordinances and policies, and the approved recommendations as provided for and/or conditioned, are considered to be the standards as set forth and shall comply as stated. Changes or variations must be approved through the Planning Department or other approving board before any such changes can take place.
10. All required local, state, or federal permits (i.e. NCDOT commercial driveway permits, NCDWQ, Chatham County Erosion & Sedimentation Control, Environmental Health Division, Stormwater Management, Building Inspections, Fire Marshal, etc.) shall be obtained, if required, and copies submitted to the Planning Department prior to the initiation of the operation/business.

Standard Administrative Conditions

11. Fees - Applicant and/or landowner shall pay to the County all required fees and charges attributable to the development of its project in a timely manner, including, but not limited to, utility, subdivision, zoning, and building inspection, established from time to time.
12. Continued Validity - The continued validity and effectiveness of this approval was expressly conditioned upon the continued compliance with the plans and conditions listed above.
13. Non-Severability - If any of the above conditions is held to be invalid, this approval in its entirety shall be void.
14. Non-Waiver - Nothing contained herein shall be deemed to waive any discretion on the part of the County as to further development of the applicant's property and this permit shall not give the applicant any vested right to develop its property in any other manner than as set forth herein.

Nick Robinson, attorney, stated that it is true that the statutes say that the content of the consistency statement is not reviewable by the court; on the other hand, it is also true that the ordinance reads, "The governing board shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and explaining why the board considers the action to be reasonable and in the public interest."

He stated that the Planning Board recommended said, "The application is consistent with the Land Use Plan." He stated that, in his opinion, it doesn't go the second step of explaining why the Board considers the action taken to be reasonable and in the public interest. He stated that this Board has previously adopted a consistency statement in connection with another project in Chatham County that was an RV park. By looking at the form of that consistency statement, it did both of those things. The version of the consistency statement that he submitted, he stated is really intended to make sure that it covers both of those statutorily required aspects.

Jep Rose, County Attorney, stated that either one of the consistency statements will work. He stated that Mr. Robinson's statement is accurate and that he agrees with it.

Commissioner Bock moved, seconded by Commissioner Stewart, to adopt **Resolution #2013-07 Adopting a Consistency Statement for the Approval of Amended Conditional Use Permit for Westfall** (as drafted by Nick Robinson).

Commissioner Kost stated that there are a couple of things that she doesn't feel are needed in the statement; however, she will vote for it.

Chairman Petty called the question. The motion carried five (5) to zero (0). The resolution is attached hereto and by reference made a part hereof.

Commissioner Bock moved, seconded by Commissioner Stewart, to adopt **Resolution #2013-08 Approving A Revision to a Conditional Use Permit Request by Westfall Associates, LLC and Charles and Janet Myers**, attached hereto and by reference made a part hereof.

Commissioner Kost stated that if the clock could be turned back to 2005, she would probably feel differently than she does now about this project. There was a lot of concern when this project was constructed. There were a lot of problems with the way it was constructed. The citizens were right in 2005. If we were starting new and starting over, she stated that she probably would not support the project in this location. She doesn't feel that the density is right as it is an environmentally sensitive area. She stated that she is comparing this project as it is now with the additional homes but with the increase in riparian buffers and some of the other changes that she feels do make it a better project. She stated that she is comparing it to "is it better than what we already have approved". The answer, she said, is yes and she will be voting in the affirmative. She stated that she feels they will move cautiously when they move forward as it is an extremely environmentally sensitive area and an area with some challenging topography.

Chairman Petty called the question. The motion carried five (5) to zero (0).

Westfall Associations, LLC Request for First Plan Approval:

Jason Sullivan, Planning Director, explained the request by Westfall Associates, LLC for First Plat approval of Westfall to add approximately 14.071 acres and 62 lots and decreasing the overall footprint by at least 23 acres through a redesign of the lots and lot sizes, located off SR #1721, Lystra Road and SR #1717, Jack Bennett Road, Williams Township.

Zoning: R-1 with CUP for PRD

Water Source: public, Chatham County

Watershed District: WSIV-PA

Septic: On site WWTP owned by Aqua, NC

Within 100 year flood: yes, a portion of the property is within the 100 year flood plain

Westfall (originally Booth Mountain) was approved by the Board of Commissioners under pre-2008 Subdivision Regulations in January, 2005 to consist of 180 lots on 294 acres to be served by county water, on-site WWTP, and private roads. In January, 2008, 94 lots received final plat approval, Phases 1A, 1B, and 1C. The 86 remaining lots had a sketch design approval. The first phase (1A, 1B, & 1C) was partially completed prior to the economic downturn at which time the property sat dormant and eventually was conveyed by the original owner back to the lending institution. The applicant purchased the property in 2011 from the bank and began work within the existing approved portion of the subdivision.

The applicant is requesting a modification to the existing CUP to add 14.071 acres, 62 new lots, and modification of some of the existing lots. A public hearing on the zoning request was held during the 11/19/12 County Commissioners meeting. The zoning request was reviewed by the Planning Board during their 1/8/13 meeting. The Planning Board made a favorable recommendation to the Board of County Commissioners on the zoning request.

The subdivision request includes the addition of land to the project and the addition of 62 lots along with revisions/recombination of some of the existing platted lots, the request is being reviewed under the Subdivision Regulations approved in 2008. The Subdivision Regulations states in Section 5.2 C (4){a} that "The first Planning Board meeting shall include a Public Hearing to receive public comment on the proposed

subdivision and {b} "Following the Public Hearing, the Planning Board shall review the proposal, staff recommendation and public comments and indicate their recommendation for approval, disapproval or approval subject to modifications. If the Board recommends disapproval or approval subject to modifications, the necessary reasons or modifications will be specified in the minutes and {c} "the Planning Board shall have two (2) meetings in which to act on a proposal."

As stated previously, the developers, Westfall Associates are requesting First Plat approval of Westfall to add approximately 14.071 acres and 62 lots and decreasing the overall footprint by at least 23 acres through a redesign of the lots and lot sizes. Nick Robinson, attorney for the applicant, submitted the Concept Review Application to staff on October 12, 2012. A community meeting was held on November 12, 2012 at the offices of Bradshaw & Robinson, LLP. Notification letters were mailed to all property owners within 400 feet of the subject property. One person, Mr. Tim Peele, attended the meeting. Issues discussed were impact on Mr. Peele's property, DOT safety alignment project, time frame of development and home sizes and price range. A Technical Review Committee meeting was held on November 14, 2012 to give Chatham County staff and others the opportunity to review the project and ask questions of the applicant. Mr. Robinson along with Joe Faulkner, PE, CE Group attended the meeting on behalf of the developer and explained the differences between the existing approved plan and the modified plan. Those differences are discussed in the Statement of Purpose submitted with the zoning request and include the addition of 14.071 acres, adding 62 lots, decreasing the size of the overall platted footprint by at least 23 acres due to lot sizes being reduced, increased riparian buffers, decrease in impervious surface area, meeting the new riparian buffer rules. Note: there are two (2) corrections to the Statement of Purpose. There are currently 94 lots with final plat approval, not 92, and the amenity area is being relocated to the *north side* of the project.

The Subdivision Regulations states in Section 6.2, "Pursuant to N. C. Gen. Stat. 113A-8, the County requires the subdivider to submit an Environmental Impact Assessment for any proposed non-residential development project of two contiguous acres or more in extent that disturbs two or more acres or for any proposed residential development project of two contiguous acres or more in extent that will include fifty (50) or more dwelling units, whether detached or attached single family residences or in multifamily structure or structures." The developer submitted an Environmental Impact Assessment for the project, dated October 5, 2012, to Dan LaMontagne, Environmental Quality Director. A copy of the report can be viewed on the Planning Department webpage at www.chathamnc.org/planning <<http://www.chathamnc.org/planning>> , under Rezoning & Subdivision cases, 2012, Westfall. The report was peer reviewed by Froehling & Robertson, Inc. Comments dated November 8, 2012, related to the Assessment were received from Christopher J. Burkhardt, Senior Environmental Professional. Per Mr. Burkhardt, "minor additional discussions, figures, and corrections are suggested for the EIA to be considered complete." The developer addressed each of the comments. The comments from Mr. Burkhardt along with the response from the developer are provided in the Application Booklet.

The developer is proposing to modify the existing plan as follows:

Phase A

- * 26 existing platted lots will remain the same
 - * 7 existing platted lots will be recombined
 - * 78 new lots will be created
 - * 2 existing platted lots will be recombined into open space in Phase A and these 2 lots will be recombined into Phase B
- Total lots in Phase = **113**

Phase B

- * 24 existing platted lots will be recombined
- * 2 existing platted lots from Phase A will be recombined
- * 43 new lots will be created

Total lots in Phase = **69**

Phase C

- * 35 existing platted lots will remain the same
- * 25 new lots will be created

Total lots in Phase = **60**

Total Phase A, B, & C = **242 lots**. The modified plan will have lots that are a minimum in size of 0.15 acres, a maximum lot size of 2.85 acres, and an average lot size of 0.56 acres. (The existing lot plan was to have a minimum lot size of 0.70 acres, a maximum lot size of 1.65 acres, and an average lot size of 1.01 acres.) The smaller lots will allow the developer to decrease the overall platted footprint of the development by approximately 23 acres, provide approximately 35 acres of additional open space, increase buffered areas, and decrease the impervious surface coverage from 18.5% to 17.8% of the total land area. The modified plan provides for an overall total of open space of 46.7%. A copy of the previous subdivision plan can be viewed on the Planning Department webpage at www.chathamnc.org/planning <<http://www.chathamnc.org/planning>>, Rezoning and Subdivision Cases, 2013, Westfall.

All lots are proposed to be accessed by paved, private roads. The roads will be designed and built to the NCDOT standards, however not state maintained. The private roads may be gated, provided access is made available to emergency vehicles. The developer has provided a trail easement from the subject property to the Chatham County School site. Water will be provided by Chatham County. The proposed utility layout is shown on the First Plat. The developer will provide water plan permits from Chatham County and NCDWQ at the time of Construction Plan submittal. Sewer service will be provided by a Wastewater Treatment Plant, owned and operated by Aqua, NC. The WWTP is currently being built to provide 45,000 gpd which will serve the existing 94 platted lots and will be expanded as needed. The permit issued in 2006 is still valid and allows the plant to be built to a capacity of 90,000 gpd.

On the previous plan, there were lots abutting riparian buffers, however most lots did not include any of the riparian buffer area in their acreage. The new plan, due to the decreased footprint, has the newly created lots pulled away from the riparian buffer boundary with additional open space between the buffer and the lots. An on-site buffer review was performed by Soil and Environmental Consultants (S&EC) on July 17, 2012. A copy of the buffer review report is provided in the Application Booklet. The buffer review was conducted according to the Chatham County Watershed Protection Ordinance as revised in 2008 and incorporates the new buffer requirements along ephemeral streams. Dan LaMontagne, Chatham County Environmental Quality Director, met on site with David Gainey, Project Manager, S&EC, to review the buffer report. Mr. LaMontagne stated in an e-mail to Mr. Gainey, dated October 5, 2012, "Thanks for meeting at the site yesterday to review the attached Buffer Submittal. As we discussed, we agree with the determinations as presented in your submittal. This email is to serve as confirmation of Chatham County's concurrence with your findings."

The current existing subdivision approval was approved prior to the new stormwater regulations. This request will meet the current Chatham County Stormwater Ordinance requirements. Per the EIA "There are three existing dry detention structures within the existing constructed and platted areas which will remain as-is. All other areas will be changed to include the design and installation of Water Quality structures which will treat the 1-inch one hour storm volume in addition to detaining the 10 year storm event to pre-developed peak discharge rate per the current county regulations".

Proposed stormwater pond locations, and other stormwater features are shown on the First Plat. The stormwater permit along with the soil and erosion control permit will be submitted at the time of Construction Plan submittal.

An Archaeological Assessment was performed on the subject property in 2005 and no significant historical features were identified. The Chatham County Historical

Association has concerns that the assessment was not conducted thoroughly. In performing the current on-site riparian buffer review, a chimney and an old house site was discovered by S&EC. Bev Wiggins, with CCHA, also stated that CCHA had been notified that there *may* be a cemetery (King cemetery) located on the property. Ms. Wiggins met on site with David Gainey, S&EC, to photograph the chimney and house site. No search for the possible cemetery has been conducted. It is the developer's responsibility to report any evidence of gravesites or historical features found during the development of the property.

Nick Robinson, attorney for the developer, sent a notification letter to Robert Logan, Chatham County School Superintendent, of the proposed changes to the project. Mr. Logan responded in part saying "The school system and Board of Education are very glad to hear of the plans to move forward with the Westfall Subdivision.....The size of the Westfall Subdivision would have no impact on the new high school.....However, Westfall children are in the North Chatham Elementary School attendance district. North Chatham is currently just under capacity and growing. An additional subdivision the size of Westfall would definitely expedite the need for an additional elementary school in the North Chatham area.....Much success on the Westfall project." Please see the letter in its entirety in the Application Booklet.

The Chatham County Emergency Operations Office has approved the following road names for submittal to the Board of County Commissioners: Lystra Grant Court, West Beech Slope Court, Futrell Ridge Court, Futrell Grant Court

The Subdivision Regulations states in Section 5 C (6) "The first phase of phased subdivision must submit Construction Plans within two (2) years of approval of First Plat." Westfall is a phased subdivision. The developer provided a development schedule on the cover sheet of the First Plat, but, has requested to revise that schedule. The revised schedule states that Phase 1 of the project will be submitted for Construction Plan review and approval by February 17, 2015 (estimated two (2) years from First Plat approval date). The revised development schedule states that all 242 lots will be submitted for Final Plat review and approval on or before December 31, 2025. Staff thinks the development schedule is reasonable.

The approval of the First Plat by the Board of Commissioners serves as permission to begin acquiring permits according to the plans and as a basis for preparation of the Construction Plan(s).

Construction Plan and Final Plat are reviewed and approved by County staff unless staff deems there to be significant changes from the approved First Plat. The subdivision submittals will adhere to the zoning conditions.

A Public Hearing was held at the January 8, 2013 Planning Board meeting. There were no public comments. Nick Robinson, attorney; Joe Faulkner, PE, and Mark Ashness, PE, CE Group; and David Gainey, Project Manager, S&EC, were present to answer questions. Board discussion followed. Mr. Robinson addressed the Board and briefly explained the application and stated that the zoning discussion had covered the details of the application. There were no questions for the applicant.

The plat meets the requirements of the Subdivision Regulations. The Planning Department and Planning Board (by unanimous vote - 10 members present) recommends approval of the road names Lystra Grant Court, West Beech Slope Court, Futrell Ridge Court, Futrell Grant Court; recommends approval of the development schedule; and recommends approval of the First Plat titled "Westfall Subdivision First Plat" with the following condition:

1. The revised development schedule shall be shown on all Construction Plan submittals.

Commissioner Kost asked why the decision was made to go with private roads versus State-maintained roads.

Joe Faulkner, CE Group, explained that the main reason that the roads were changed to private roads was due to NCDOT holding the developer to their current rolling standards versus hilly standards which would make a severe difference in the amount of disturbed area by the cut-slopes that would have been involved. He stated that they designed it to a hilly standard but the NCDOT would not approve a hilly standard.

Commissioner Kost stated that the reason she was concerned about that is that she is watching now that the County has some subdivisions that were built in the mid-1970's. The roads are now starting to deteriorate. Their homeowners associations have not escrowed any funds, and someone is about to get slapped with big fees to redo the roads. She stated that she was always concerned about private roads.

Mr. Robinson stated that the covenants have already been drafted for the community to provide for a separate road maintenance fund and an assessment that goes along with it.

Commissioner Cross moved, seconded by Commissioner Bock, to approve to approve the First Plat and the road names. The motion carried five (5) to zero (0).

Award Bid for Construct of the Chatham County Detention Center to Bordeaux Construction Company:

Renee Paschal, Assistant County Manager explained that the award the bid for construction of the Chatham County Detention Center to Bordeaux Construction Company as follows:

Base bid: \$12,518,300
Alternate 1, Sallyport: \$423,000
Alternate 2, Administration Upfit: \$158,900
Alternate 7, Sliding Doors, \$128,600
Alternate 8, Epoxy flooring: \$0
Alternate 11, Additional Storage & Shop \$252,700
Total: \$13,481,500

The Chatham County Detention Center project was bid on December 11, 2012. Bordeaux Construction Company was the low bidder, but with all alternates, the total bid of \$14,712,200 was over budget by \$2.7 million. The Project Manager worked with Bordeaux to value-engineer the project and was able to achieve a savings of \$437,700. In addition, the county in consultation with the Sheriff has opted not to take the following alternates (Alternates 5 & 6 were not used):

Alternate 3, Additional Kitchen Equipment (for future jail expansion): \$64,000

Alternate 4, Perimeter Fencing: \$88,000 (this can easily be added later if contingency or other funds are available)

Alternate 9, Additional Storage: \$83,000

Alternate 10, Upfit of cellblocks F&G: \$558,000 (this means 2 cell blocks will be shelled in, but not finished for occupancy)

Total savings from value engineering and foregoing alternates: \$1.2 million, leaving the project \$1.5 million over budget.

Because of the timing of the debt issuance, the county received a \$1.28 million premium on the bonds sold. This means the county was able to borrow \$1.28 million more than what we will have to repay in principal. The county borrowed \$15.5 million,

which is \$250,000 more than staff reported just prior to the sale. With an issuance cost of \$279,517, that leaves \$16.5 million to spend on the project, allowing us to award the bids to Bordeaux.

The County could ask the architect to redesign the jail and bring it within budget; however, further escalation of construction costs would erode the funding available.

Because of the low interest rate (2.82%) for the financing, the County will save a total of \$2,354,401 in debt service over original projections. Even though the County will have to pay back \$500,000 more in principal, interest savings are substantial and more than offset this.

Because the project is still within the debt model (actually less), staff recommends approval and award of the bids to Bordeaux Construction Company, as follows:

Base bid: \$12,518,300
Alternate 1, Sallyport: \$423,000
Alternate 2, Administration Upfit: \$158,900
Alternate 7, Sliding Doors, \$128,600
Alternate 8, Epoxy flooring: \$0
Alternate 11, Additional Storage & Shop \$252,700
Total: \$13,481,500

Commissioner Kost asked the amount of the total budget and asked if the bid included running the utilities from Pittsboro. She stated that there were people along the route that she had heard wanted to hook into the system. She stated that the Board needed to discuss this at a future meeting.

Commissioner Bock moved, seconded by Commissioner Cross, to accept Staff recommendation and award a bid to low bidder, Bordeaux Construction Company with the base bid and award Alternates 1, 2, 7, 8, and 11 for a total award of \$13,481,500.00. The motion carried five (5) to zero (0).

Board of Commissioners' Goals: Consideration to adopt Board of Commissioners' Goals

Ms. Paschal reviewed the goals below:

OVERARCHING GOAL: Achieve a prosperous, thriving community

LONG-TERM GOAL: Achieve AAA bond rating

Short-term goals:

- Diversify job base and tax base—increase commercial and industrial tax base by 1% per year
- Complete a county land use plan
- Increase options for student learning & achievement
- Obtain a certified megasite for economic development
- Maintain the property tax rate
- Build a business-friendly environment for new and expanding businesses

LONG-TERM GOAL: Build the new Agriculture Center.

LONG-TERM GOAL: Ensure efficient, effective government

Short-term goals:

- Conduct energy audits of buildings that were constructed to be energy efficient (e.g. LEED) or have had energy efficiency improvements (e.g., Johnston Controls)

- Continue and expand the inventory of how the county does business to identify barriers/obstacles (including state level) and work to remove obstacles
- Seek opportunities to partner with municipalities and private entities to enhance efficiencies

LONG-TERM GOAL: Build a safer community

Short-term goals:

- Invest in safe and secure schools and county buildings
- Monitor the status of the mental health environment
- Protect the environment and drinking water and send letters of support to state officials

PARKING LOT ISSUES

- Preston development... maintain close working relationship
- First Responder/9-11 Memorial...discussion coming March 18 BOC meeting
- State of the County---make sure we demonstrate staff achievements, but also note the big challenges we face
- Siler City business park signage
- Disaster planning to include emerging risks...Sally to report back
- Chatham Trades keep eye on this group for support...Losing some of their funding sources

Ms. Paschal explained that she had received emails from the Economic Development Corporation stating that they feel the increase in the commercial and industrial tax base by 1% per year is overly ambitious. They would like for the Board to consider changing the goal from 1% per year to 5% over ten years. She stated that this would be a pretty substantial increase in the commercial and industrial tax base. It would move from 9% to 15%.

Chairman Petty stated that he felt the goal setting was a little ambitious.

Commissioner Kost suggested that it be moved out of “short term” goals. She asked that the Board consider adding under the “Long-Term Goal: Achieve AAA bond rating, Complete a county land use plan”, she would also like to add “including infrastructure planning” to that.

Commissioner Kost asked that the Board consider placing the “Long-Term Goal: Achieve AAA bond rating, maintain the property tax rate” under “Ensure efficient, effective government” because maintaining the property rate isn’t tied to the bond rating. It is tied more to efficient government.

Commissioner Kost also asked that the wording of “Long-Term Goal: Ensure efficient, effective government” that “Continue and expand the inventory of how the county does business to identify barriers/obstacles (including state level) and work to remove obstacles” is funny. She stated that she would like to see it read that they will to remove obstacles when appropriate. She stated that there are some obstacles that are balancing why they are obstacles and what they are trying to do to protect that would need to stay there. The way this is written, it doesn’t say that.

She suggested that the Board might want to approve the goals and have Staff bring something back to the Board to address that concern.

Commissioner Bock stated that he didn’t know if it would be an obstacle at that point. An obstacle implies a negative that shouldn’t be there. He stated that he wouldn’t want to remove all obstacles.

Commissioner Kost stated that it was judgmental and just depends. What is an obstacle to one may not be an obstacle to another person. It is very subjective. The wording is not clear and she feels that it can be cleaned up so that all can agree on it.

Commissioner Kost stated that under “Long-Term Goal: Build a safer community, Protect the environment and drinking water and send letters of support to state officials” might be better stated as “Protect the environment and drinking water and be proactive in identifying issues that threaten environmental protection”. She stated that being proactive is more than just sending letters.

The “Parking Lot Issues”, Commissioner Kost stated, would then come off the Commissioner Goals as it is more of a follow-up list.

Commissioner Bock stated he could agree to the changes except for the one removing the word “obstacles”.

Commissioner Kost stated that she wasn’t suggesting removing the word “obstacles” but adding “to remove obstacles when appropriate”.

Commissioner Kost stated that she would compromise and forego the “obstacles” language as first written.

Commissioner Kost moved, seconded to approve the goals as amended. Commissioner Stewart seconded. The motion carried five (5) to zero (0).

Discussion and Vote on Allowing First Responders Memorial to be Built at 129 Sanford Road, Pittsboro, NC:

Commissioner Bock moved to allow the First Responders to place the memorial on the property at 129 Sanford Road. Commissioner Stewart seconded the motion.

Commissioner Kost stated that she heard Mr. Duncan who was very passionate about what he said; however, she has heard people on the side who were just as passionate. She stated that she agrees it is time for a memorial to the first responders. That is a great plan. She would have liked to have seen the Board take the copper from the old burned out courthouse and to have an artist actually construct a memorial that would be Chatham-centric. To the fire fighters who look at the piece of steel from the 9/11, they perhaps see and recognize that they are commemorating the people who responded on that day. Other people are going to look at the memorial and see something completely different. They will see a time that is very dark in our history; a time that not everyone is proud of what happened afterwards; and it is not very Chatham-centric. She stated that to her, one other thing is that the terrorists may see justice in having it at a justice center. They will say that they won. We have a piece of the debris from the World Trade Center on a courthouse lawn. As much as she wants to see a memorial, she stated that she wants to see it in a place that is more appropriate. Where that connection is made, is commemorating people who respond to an emergency. She stated that it was discussed at the retreat that the issue would be discussed at the March 18th Board of Commissioners’ meeting and she was using that time to come up with a proposal. She has heard her fellow Commissioners say that this isn’t the ideal site, but it is what we have. We have not really evaluated any other sites or none of which she is aware. She questioned why the decision was just made without evaluating other sites. She stated that she was going to propose is that she would work very hard in the next six months to raise \$10,000 in order to buy a site and find a more appropriate site. The proposal was going to be brought forth at the March 18th meeting, but because of the timing, this is being pushed up. She cannot give the details of how she would be going about it. She stated that she was willing to do it because she feels strongly that what might mean something to others is going to have unintended meaning to other people. Putting this non-Chatham-centric monument on the courthouse area is too much controversy and negativity to doing so.

Commissioner Bock asked if Commissioner Kost was opposed to the location or the fact that they are using a piece of steel from 9/11. He stated that it was not going to be Chatham-centric whether a new piece of land is bought or not.

Commissioner Kost stated that she was trying to reach a compromise by looking at some more appropriate location for it. She stated that there are some people who are not going to want it no matter what. She stated that Donna Kelly had sent her some memorial sites and she had looked further; however, she couldn't find one site that was at a courthouse. She found sites at parks, office buildings, and fire stations. She stated that was what was giving her the most pause because of the symbolism of something unjust to Americans but to the terrorists, they are saying that they win. She stated that she feels strongly about this. She has received one email in favor and quite a few against; each of the five speakers at the public hearing spoke against the placement of the memorial at the courthouse; and that she has spoken to approximately one hundred people, none of whom like it.

Commissioner Stewart stated that the proposed memorial would be located directly across the street from the fire department in Pittsboro. The correlation between justice and what happened is not about New York and 9/11. We are talking about first responders, the band of brotherhood, the bond they have no matter where they are, and the fact that people gave their lives that day to save the lives of others. This is what it is all about. It is about the self-sacrifice that they gave, not about someone flying a plane into the building. It is about the individuals that stepped up to the challenge to go in and do something for the fellowmen. It is about the best in people, not the worst. When you talk about the correlation, the justice center sits there. The memorial will be to the side and down below. There is a direct correlation between justice, the legal system, and law enforcement. She stated that she thinks what they want to do is not just about a piece of steel. They came back with a proposal without asking the first responders if it worked for them. From hearing from them, they would like to the first responders incorporated into this memorial. It is not just about the piece of steel. It is about the men and women that were there that day, their sacrifices, and what they did. The land can't be used for anything else. That is not to say that it can't be used as a park and there will be other things there as well. She stated that she thinks it is all in the perspective of how it is being looked at and the intention which means everything.

Commissioner Kost stated that part of what Commissioner Stewart says, she agrees with; however, she doesn't think that everyone is going to feel the same way. She is trying to look at this from a 360 degree angle and how others will perceive it. They are not seeing it the way Commissioner Stewart is.

Commissioner Stewart stated that she feels that is the way it was meant.

Commissioner Bock stated that it was going to be impossible for any memorial to have one hundred percent agreement on what it means. He stated that he doesn't agree with the five people who stood up and spoke against it stating they are the ones in a lot of the cases that use the offensive language that Mr. Duncan was talking about. He stated that if they want to put a memorial for first responders, there is no other piece in the country that would more signify what the first responders do than what happened on 9/11. He stated that they may have made a mistake in originally calling it a 9/11 memorial; however, it is not that. It is a first responders' memorial. If there are five people against it or one hundred people against it, he would lean toward the side of how many first responders in the County that want it. To date, he has heard one first responder against it.

Commissioner Cross stated that he had spoken with a lot of first responders, thinks this area is fine, and that he has taken two groups, including part of the Board of Commissioners, over to look at the drawings and where it would end up. The memorial would be placed toward the back corner of the fence. It would not be in the front yard of the courthouse. He has taken the Fair Board over to discuss their concerns about it and the old agricultural building and what could be done to memorialize it. He stated that the

County owns that property and nothing else could be built on it. We don't have to look for more funds or another piece of property. The committee is already going to have to raise the money to build the memorial. He stated that he is in favor of it going in this site.

Chairman Petty stated that he has about ten years of fire service and has a son who is a full-time fire fighter in Raleigh. He stated that until you have gone and put your life on the line for another person that you don't know, you don't know what these guys feel. What greater love does a man have than when he lays his life down for another? You never know when the bell goes off if you will come home at the end of the day. He stated that a memorial to the service of these guys and what they contribute to society should be honored. He stated that he doesn't connect the negative dots that people talk about. If you say the ones that crashed the planes into the building feel like they win, he doesn't care what they think. We are honoring fire fighters, EMS, and our guys that put their lives on the line to go into burning buildings or drive up on a crash scene of burning vehicles or hazardous chemicals. They are putting their lives on the line for someone that they don't know. How could one deny the guys that recognition? The pay is like that of other civil servants. The FBI, police, sheriff, fire fighters, EMS, and others all do this because they love to serve people. They don't do it for the pay. He stated that he had spoken with these guys and they would appreciate someone to recognize what they contribute to our society.

Commissioner Stewart stated that she still did not understand what the location matters. Either you want to honor them or not. At this point, it has become the principle of the thing.

Chairman Petty stated that he feels that everyone who spoke against the memorial on that site could be in a bad situation tonight and these guys would go get them.

Commissioner Kost stated that the location is important to her, but she feels like Board members are making it sound as though she is not supportive of the first responders and public safety. Anyone who knows her, knows her record, and knows that she has been one of the biggest supporters of public safety. She stated that she is insulted by her fellow Board members who are making it sound like she doesn't want to honor the people who do put their lives on the line. That is not what she said and what she is talking about is trying to get around the unintended consequences of making it understood that not everyone is going to see the piece of steel from the World Trade Center as a memorial to the first responders. They are going to see it as a 9/11 reminder. She stated that Chairman Petty spoke very deep from within his heart, but it made it sound as though she didn't care about the first responders.

Chairman Petty stated that he didn't mean it to sound that way.

Commissioner Kost stated that she wanted to make it perfectly clear as she has always been supportive of law enforcement and public safety.

Commissioner Stewart stated that they were going to feel that way no matter where the steel is placed in Chatham County. Putting it somewhere else is not going to change their feelings about the piece of steel if that's what it is all about.

Commissioner Bock stated that he didn't believe it's necessarily bad if they are reminded of 9/11. He stated that he feels we need to be reminded.

An unnamed person stated that there was a saying about the Holocaust: Never forget. He stated that 9/11 should never be forgotten because that enemy will be with us forever. The people who did the attacks did not just attack New York, they attacked the country. The first responders saved multiple lives while giving up their own lives.

Francine Henville-Shannon stated that the only thing that she knew in the past was that the Board was talking about a 9/11 memorial. She understands that the Board is not talking about a 9/11 memorial but a first responders memorial with a piece of metal

from the 9/11 event. She stated that she would think that if it was put in any spot, as long as the wording on the plaque in front of it was duly noted for first responders, it would cover everyone.

Chairman Petty stated that the first rendition of what was presented didn't include contributions from EMS people.

Commissioner Stewart stated that the intent was always to be as a tribute to the first responders. No one thought that anyone would be offended by it. For clarification, this is something that is being done by the citizens who are raising funds to build this and will be a Chatham County First Responders Foundation that is set up. They will then take it from there. The County offered to let them have the piece of land on which to place the steel.

Commissioner Bock asked the people in attendance that would support the first responders memorial in that site. He stated that that is most everyone in the room and more than five people. They can't make their judgment based on who is at a particular meeting.

Chairman Petty stated that with regard to Commissioner Kost, she supports the fire fighters, first responders, and sheriff's department stating that it is evident when they hold budget discussion. He stated that it was not intended to mean that she did not support them. He stated that he is passionate about that profession as he has worked in it and has family in it. It was not intended the way it may have come across.

Commissioner Kost thanked Chairman Petty for his comments.

Commissioner Stewart stated that it was not aimed at Commissioner Kost. She stated that her son is also a full time fire fighter and a volunteer fire fighter and she feels she is closer to the whole thing. She stated that it was not about Commissioner Kost, but about some of the comments that have been made and the opposition to it. It is an emotional thing for her that people actually think this way; however, people are different.

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

MANAGER' S REPORTS

The County Manager had no reports.

COMMISSIONERS' REPORTS

First Responders' Location:

Commissioner Cross stated that he had spoken with the County Manager and the Public Works Director regarding the site of the first responders' memorial. The site had not been cleaned up because the land had not been purchased when the contractor was hired to build the Judicial Center. Another contractor will still have to be brought in to clear away the house and mobile home. He stated that he would suggest cleaning up the site and grassing the area.

Commissioner Kost asked if the committee would pay for having that work done.

Commissioner Cross stated that the memorial could be several years from completion. A lot of money has to be raised. The area needs to be cleaned up as it is an eye sore to the Town of Pittsboro. There is no reason that we could not go ahead and clean up what is there and even proceed with the NCDOT historical marker for the Ag Center.

Commissioner Kost explained that before a decision is made, she would like to know how much money they are talking about.

Commissioner Cross stated that we wouldn't know until a "request for proposals" is done. It would need to be cleaned up regardless if anything was going there.

Vicki McConnell, Finance Officer, explained that the County is going out for bids to remove the mobile home. There are no plans to demolish the brick building.

The County Manager stated that the site may not include the brick building.

Assistant County Manager:

Chairman Petty stated that Renee Paschal has accepted a position in Wake County with the budget office. Her last day is March 22, 2013. He stated that her commitment, performance, and service to Chatham County has been outstanding and the Board appreciates what she has done. He stated that the County has been fortunate to have her and others it has lost recently as employees and team members.

Chairman Petty stated that the County has a good team and a lot of good staff members. They are all committed to doing their job and serving the citizens well. He stated that they hate to lose any of them, but he wanted to assure the citizens that there are people to fill those shoes and the County will keep moving forward.

Commissioner Cross stated that Ms. Pascal was being hired as the Wake County Budget Director and going from an 85 million dollar budget to a billion dollar budget.

Commissioner Bock stated that when Ms. Paschal told him she was leaving, it hit hard. If you don't work for the County, there is no way you can have an appreciation for what Staff does. He stated that she would be missed.

Fracking:

Commissioner Bock stated that Jerry Cole from Environmental Review Advisory Committee has been attending some of the meetings on fracking. He lets them know at some of the meetings how they impact the County and things of which they should be aware. One item that has come up is on the compulsory pooling aspect of fracking. When the rules were put together, they need to hear from the Board. Compulsory pooling means that if you don't want to frack on your property but everyone else around you does, then you can be forced to allow drilling on your property. This goes against what the rest of the Legislature is doing by sponsoring a Bill for the 2014 vote to amend the Constitution in the State to say that we can't use eminent domain or condemnation strictly for economic development purposes. If you read the rationale for compulsory pooling, one of the reasons is that it makes it easier for the drillers. He stated that he thinks before this rule is put into place, that they are truly looking for input. He stated that he feels this is counter to what the rest of the Legislature is doing. If there is a way the Board could send a letter, expressing their strong opposition to that particular aspect of the rule making.

Chairman Petty asked if everyone was in favor of it.

By consensus, the Board agreed. Commissioner Bock stated that he would be glad to help with some of the wording based on the specific points for which they are looking.

Commissioner Kost stated that she has attended all of the compulsory pooling meetings. It is interesting that they are also called integration. There is one thing that came out of this that she would like to see Chatham County do. The mineral rights and surface rights have been severed. It is very difficult for people to know if they are in that position. Lee County has been very proactive and has been working over time to research and map where the rights have been severed and graphically showing the

mineral rights. She stated that she would like to see the Chatham County Register of Deeds come into a meeting and talk about this issue. She stated that she is constantly getting the question by people who want to know if they own their mineral rights and how they find out. She asked if she could come in and explain how this is structured and what it would take to do that. This is a concern of a lot of people.

MPO:

Commissioner Kost stated that there is now a requirement that serving on the MPO or the RPO which is impacting staff. The new ethics requirement means that in addition to our training as a county commissioner, they will have to get additional training. She is fine with that as she serves in an advisory role and they are requiring financial disclosure. She does not think she should have to report her debts, holdings, investments, etc. on a board that she serves in an advisory role and not as a decision maker. They are also asking staff to do that which she feels is absolutely wrong. She stated that she does not see why the Planning Director should have to show who he owes money because he is the Planning Department Director. She stated that she hopes the Board feels the same way and will feel the need to push back.

The Planning Director stated that he had a copy of the application if the Board would like to review it.

Commissioner Bock asked what our options are.

Commissioner Kost stated that they can discuss what they need to do with the County Attorney, but that she will resign from the RPO before she meets the requirement of financial disclosure. She stated that she has no conflicts or nothing to hide, but she is in an advisory role. She stated that no one on the RPO is willing to do it.

The Planning Director stated that there were civil and criminal penalties associated with it. The penalties are not from the MPO but from the State Ethics Commission.

Commissioner Kost asked that the County Attorney research this and find out what the Board of Commissioners can do to push back.

Commissioner Bock stated that there were criminal penalties for filling out false information. He asked if the penalties applied to not filling it out at all.

The Planning Director stated that there was a \$250.00 penalty for not filling it out.

Commissioner Cross asked how much the penalty would be if someone dropped off the board.

The Planning Director stated that there would be no penalty.

Mental Health Oversight Board:

Commissioner Kost stated that she serves on the Mental Health Oversight Board. They have required them to sign a conflict of interest statement. It makes them say that their first allegiance is to Cardinal Health, the private, nonprofit that is running mental health. They have gotten a waiver so that the OPC will not have to fill out the forms but if they want to send a representative from our OPC to the governing board which is the next step, then they have to fill it out. The Chatham County Attorney is working with the other attorneys of the other two counties.

The County Attorney stated that if it was in their bylaws, they can do it.

Black History Month:

Commissioner Kost reminded everyone that February is Black History Month. There are several events. She stated that perhaps next year, a resolution can be prepared.

School Board:

Commissioner Kost stated that the Chatham County School Board met again on the decision for a replacement for the vacancy left by Deb McManus. They reached an impasse and will be coming forward asking for a special election. The Board of Commissioners will need to file a resolution in support of it. If the Board asks for a General Obligation Bond for the new Agriculture Center, it would fit in well with the timing.

ADJOURNMENT

Commissioner Bock moved, seconded by Commissioner Cross, to adjourn the meeting. The motion carried five (5) to zero (0), and the meeting adjourned at 8:09 PM.

Walter Petty, Chairman

ATTEST:

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