

MINUTES
CHATHAM COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING
FEBRUARY 20, 2006

The Board of Commissioners (“the Board”) of the County of Chatham, North Carolina, met in the District Courtroom, 12 East Street, located in Pittsboro, North Carolina, at 6:00 PM on February 20, 2006.

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

Absent: Commissioner Carl Outz

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

PLEDGE OF ALLEGIANCE AND INVOCATION

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

AGENDA AND CONSENT AGENDA

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

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

CONSENT AGENDA

1. **Minutes:** Consideration of a request for approval of Board Minutes for regular meeting held February 06, 2006 and work session held February 06, 2006

The motion carried four (4) to zero (0).

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

- A. Horton Farm Lane
- B. Liberty Hill Drive
- C. Margaret Louise Lane

The motion carried four (4) to zero (0).

3. **Recreational Trails Program:** Consideration of a request to apply for the Recreational Trails Program in order to make improvements to the Haw River Canoe Trail. The application is attached hereto and by reference made a part hereof.

The motion carried four (4) to zero (0).

4. **Tax Releases and Refunds:** Consideration of a request for approval of tax releases and refunds, attached hereto and by reference made a part hereof.

The motion carried four (4) to zero (0).

5. **Late Application Property Tax Exemption Approval:** Consideration of a request to approve late application for property tax exemption for Prince Chapel CME Church. The application is attached hereto and by reference made a part hereof.

The motion carried four (4) to zero (0).

6. **Final Subdivision Plat Approval of “Millcroft Cluster Homes, Close One”:** Consideration of a request by Van R. Finch on behalf of Fitch Creations, Inc. for subdivision final plat approval of “**Millcroft Cluster Homes, Close One**”, consisting of nine (9) lots on two acres, located off SR #1718, Villageway and Millcroft, Williams Township

As per the Planning Department and Planning Board recommendation, final approval of “**Millcroft Cluster Homes, Close One, Lots #4051 – 4059**” were approved with the following condition:

1. Curb and gutter of private streets shall stop at the right-of-way of Millcroft.

The motion carried four (4) to zero (0).

7. **Final Subdivision Plat Approval of “Shambley Meadows, Phase III”:** Consideration of a request by H & A Properties, Inc. for subdivision final plat approval of “**Shambley Meadows, Phase III**”, consisting of seven (7) lots on thirteen (13) acres, located off SR #2167, Jay Shambley Road, Hickory Mountain Township

As per the Planning Department and Planning Board recommendation, final plat approval of “**Shambley Meadows, Phase III**” was granted as submitted.

The motion carried four (4) to zero (0).

8. **Sketch Design Approval of “Hickory Downs”:** Consideration of a request by Richard Fox for subdivision sketch design review of “**Hickory Downs**”, consisting of forty-one (41) lots on 167 acres, located off SR #1506, Bowers Store Road, Hickory Mountain Township

As per the Planning Department and Planning Board recommendation, sketch design approval of “**Hickory Downs**” was approved with the following conditions:

1. The preliminary and final plats shall show a 60-foot wide future dedication of right-of-way from the subject property to the Chatham farms, LLC property.
2. Setback requirements shall be removed from the preliminary and final plats.

The motion carried four (4) to zero (0).

9. **Proposed Amendments to the Chatham County Subdivision Regulations:**

Consideration of a request to consider proposed amendments to the Chatham County Subdivision Regulations, Section 6.5 A.2.a. and b. concerning recreation fees and adopt **An Ordinance Amending the Subdivision Regulations of Chatham County**

As per the Planning Department and Planning Board recommendation, the request was approved and **An Ordinance Amending the Subdivision Regulations of Chatham County** was adopted. The ordinance is attached hereto and by reference made a part hereof.

The motion carried four (4) to zero (0).

10. **Proposed Amendments to the Chatham County Mobile Home Ordinance:** Consideration of a request to consider proposed amendments to the Chatham County Mobile Home Ordinance, Section 6.4 a. and b. concerning recreation fees and adopt **An Ordinance Amending the Mobile Home Ordinance of Chatham County**, attached hereto and by reference made a part hereof.

As per the Planning Department and Planning Board recommendation, the request was approved according to the attached amendment which clarifies that these can be used for facilities and land and are based on post development values and **An Ordinance Amending the Mobile Home Ordinance of Chatham County** was adopted. The ordinance is attached hereto and by reference made a part hereof.

The motion carried four (4) to zero (0).

END OF CONSENT AGENDA

PUBLIC INPUT SESSION

Bonnie Bechard, 238 Bartlett Drive, Pittsboro, NC, Director of Information Systems for the Guaranteed Student Loan Program for the State of North Carolina for eleven years, Director of Student Loans for UNC-Chapel Hill for eleven years, and having served at various levels on various boards, stated that she has reviewed the September 2005 Federal General Accounting Report on Elections and on the Electronic Voting Systems; that as others have concluded, when the Federal government completes the updating of laws and requirements for voting machines, the current generation of DRE's will be obsolete and will have to be replaced at great expense to the County; that sources for the document came from experts at universities, think tanks, research organizations, accountants and State officials from across the county; that the body of the report describes the flaws, lack of security, misallocation of votes, loss of votes, and other problems attributed to DRE's; that a few problems are: 1) weak system security controls and design flaws in the voter-verified paper audit trail systems; 2) Incorrect system configuration and system failure during elections; that there are many more problems with DRE's too numerous to cite; that her conclusion, based on her experience with complex software systems, testing and audit trails, is that the DRE is not a suitable voting system; that 99% of computer programmers polled agree with this assessment; that she had no opportunity for public input to the Board; that she asked that in the future when the public has not had a chance to make comments before the Board, that the Board consider waiving the usual procedures; and that she also asks that when a public official gives false information to the Board, the public be allowed to speak in order to correct the error.

Kathy Seaton, 3269 Chicken Bridge Road, Pittsboro, NC, read a Resolution Protesting the Chatham County Board of Elections Behavior and Requesting Their Replacement, attached hereto and by reference made a part hereof. She stated that the Board of Elections lied in public session the Board of Commissioners at their January 17, 2006 Board meeting by stating that optical scan machines could not support the requirement of precinct analysis in early voting; that they lied by stating that only Direct Recording Equipment (CRD) would support disabled voting; that they failed to provide justification, as required by law, for recommending two systems; that the Chair has displayed by word and deed bias

favoring Direct Recording Equipment since 2004 and predating any factual data; that the Board of Elections lied about their financial analysis and kept it hidden from public display at the January 04, 2006 public display of the North Carolina certified voting machines; the board has disregarded the written feedback from the meeting where the vast majority of responders wanted only Optical Scan machines; that they lied to both the State Board of Elections and the Chatham County Board of Commissioners about holding a public forum to obtain public input to their decisions; that they knowingly used a fraudulent financial analysis that erroneously concludes that the combined Optical Scan and DRE machines are cheaper than just the Optical Scan plus the AutoMARK Voter Assist Terminal for disabled voters; that the Board of Elections has conducted their work in an arrogant, closed and secretive manner disregarding the desires of the majority of Chatham County voters for the optical scan plus the AutoMARK Voter Assist Terminal for disabled voters; that the decision to use two different technologies will place an undue burden on the precinct judges and poll workers; that the two representatives of the Democratic Party on the Board of Elections willfully chose to ignore the wishes of their part as demonstrated in the numerous precinct resolutions in 2005 and in a letter from the Democratic Party Chairman to Boards of Elections in December 2005 in which the Chairman stated that the party wished the Boards to decide in favor of Optical Scan due to lack of voter confidence in the integrity of an election using DRE's as well as the greater expense associated with them. She asked that the North Carolina State Board of Elections require a new Chatham County Board of Elections be established and that the new board redo the process of choosing voting machines for Chatham County; and that if the North Carolina State Board of Elections does not make that requirement, that the two Democratic Party members of the Chatham County Board of Elections resign to be replaced with members in whom the Democratic Party has confidence.

Robert Eby, 19 East Madison, Pittsboro, NC, stated that he represents Chatham Citizens for Effective Communities. He stated that the establishment of new rules for quasi-judicial hearings in Chatham County rules must be proving to be a difficult process; that his comments fall into three areas: 1) Sworn Testimony and the Five Findings: If testimony is restricted to abutters and those with a proven economic interest, citizens are prohibited from speaking who could give factual information applicable to the five findings. Findings #2, #3, and #4, in particular, refer to wide sweeping conditions such as: a) Essential and desirable for public convenience and welfare; b) Not detrimental to the health, safety, and welfare of the community; c) consistent with the objectives of the Land Development Plan; 2) Recent North Carolina Statutes: The Planning Director mentioned that, at least in part, the proposed changes in Chatham's procedures for Quasi-Judicial Hearings are needed to bring them in line with recently enacted legislation; that he has carefully read this legislation, read David Owen's commentary on it, and received comments from two lawyers who have read this legislation; that no one can find where this legislation refers to Quasi-Judicial hearings; that the attorneys could find no legal constraint that would prevent the Board from hearing sworn, relevant testimony from any citizen; that he is at a loss to understand how such statutes have any bearing on Chatham's regulations; 3) What do out neighbors do? He stated that he has personally spoken with governmental personnel in Chapel Hill, Carrboro, Cary, Randolph County and Lee County; that a colleague of his has spoken with Raleigh; that in all cases they have no limits on who may speak at a Quasi-Judicial Hearing; that if a citizen takes the oath, he or she may give factual, relevant testimony. He asked what the Board was afraid of and why they felt they needed to silence Chatham citizens.

Gretchen Lothrop, PO Box 1562, Pittsboro, NC, stated that she was surprised to learn that the Board of Elections had decided on DRE; that on January 14, 2006, she went to see DRE's for herself; that she was very impressed with the optical scanning machine and the Optical-Mark; that this system is approved for early voting; that the Board of Elections met behind closed doors; that the County may provide two systems if it is necessary to meet federal and state laws; that the actual facts were different regarding the deadline; that at this time, there is no written order for Chatham County's voting machines; that there is no reason why the Board doesn't rescind their vote and go with what the people really want which is the Optical-Scan system.

Jerry Markatos, 800 Rock Rest Road, Pittsboro, NC, stated that one of the arguments that had been put forth in favor of the computer-type systems that the Board of Elections was so determined to put

in place was that it was equipment that handicapped people could use better than Optical Scan equipment; that it would be worth the effort to ask the Board of Elections where they got that information; that after the Chatham decision was made on a bogus deadline, the Wake County decision was made around February 12th; that the news of the decision to use all paper was set out by the Alliance of Disability Advocates and Center for Independent Living based in Raleigh; that organization sent handicapped people to sessions in which the equipment was being demonstrated; that their determination was that the paper-based system (Optical Scan System) plus the AutoMARK machine was the clear winner as far as serving voters; that there are people who are interested in following through with legal action over the shabby decision-making that took place with the Board of Elections and in the way that the schedule was misrepresented and other details of the process; and that he would like to join with others who have commented saying that he hopes the Commissioners will initiate action forthwith while the order has not even been received by the public and get a simple system that the poll workers can live with and not have to dedicate staff legal time to dealing with the legal arguments.

PLANNING AND ZONING

Revision to Existing Conditional Use Permit: Consideration of a request by Robert Blitchington, on behalf of Triangle Electrical Services, for a revision to the existing conditional use permit for Michael Cates/Ferrellgas, LP/propane gas business to a Conditional Use Permit for a contractor's office and shop, on one (1) acre, located off US Highway #15-501 North, Baldwin Township

As per the Planning Department and Planning Board recommendation, Commissioner Emerson moved, seconded by Commissioner Barnes, to adopt **Resolution #2006-06 Approving an Application for a Conditional Use Permit Request by Robert Blitchington**, attached hereto and by reference made a part hereof. The motion carried four (4) to zero (0).

Revision to Existing Conditional Use B-1 Business District: Consideration of a request by George Farrell, Jr. on behalf of Kunal Enterprises, LLC for a revision to the existing Conditional Use B-1 Business District with Conditional Use Permit for various uses to add mobile home sales and service specifically for *modular home sales and display*, on fifteen (15) acres, located off US Highway #64 E, New Hope Township

As per the Planning Department and Planning Board recommendation, Commissioner Emerson moved, seconded by Commissioner Barnes, to adopt **Resolution #2006-07 Approving an Application for a Conditional Use Permit Request by George Farrell, Jr.**, attached hereto and by reference made a part hereof. The motion carried four (4) to zero (0).

Conditional Use B-1 Business District With Conditional Use Permit: Consideration of a request by William R. Copeland for a Conditional Use B-1 Business District with a Conditional Use Permit for *restricted B-1 Business uses* specifically all B-1 Business permitted uses except for the following: Amusement enterprises – Bus, passenger stations – Funeral homes, embalming, crematoria – Fur storage – Laundries or Laundromats and dry cleaning – Pawnshops – Radio and television stations and their towers – on 5.6 acres, located at the northwest quadrant of the intersection of US Highway #64 and Big Woods Road, New Hope Township

As per the applicant's request, Commissioner Emerson moved, seconded by Commissioner Cross, to defer this item until the March 20, 2006 Board of Commissioners' meeting. The motion carried four (4) to zero (0).

After considerable discussion and by consensus, a committee consisting of the Chairman, Commissioner Barnes, County Attorney, Planning Director, and County Manager will meet to determine whether a new public hearing will be needed. At their March 06, 2006 meeting, the full Board will then determine whether to act on the recommendation to allow further public input.

BOARDS AND COMMITTEES

Mid Carolina Workforce Development Board: Consideration of a request to appoint a member to the Mid-Carolina Workforce Development Board by Commissioner Outz (1)

Appointment to the Mid Carolina Workforce Development Board was deferred until a later date.

Appearance Commission: Consideration of a request to appoint two (2) members to the Appearance Commission by the full Board

Appointment to the Appearance Commission was deferred until a later date.

MANAGER' S REPORTS

The County Manager reported on the following meetings:

Board of Health Meeting:

The Chatham County Board of Health will hold their regular meeting on February 28, 2006. The Board of Commissioners has been invited to attend the meeting for informational purposes only.

Board of Education Meeting:

There will be a joint meeting with the Board of Education to be held on Monday, March 13, 2006 in the Horton Middle School Conference Room at 6:00 PM.

Town of Pittsboro Meeting:

There will be a joint meeting with the Town of Pittsboro to be held in the Central Carolina Community College Multi-Purpose Room at 6:30 PM.

Legislative Delegation Meeting:

There will be a meeting with the Legislative Delegation on Tuesday, March 7, 2006 in the Dunlap Classroom at 8:00 AM.

COMMISSIONERS' REPORTS

Commissioner Cross asked how Mr. Nick Robinson could ask to defer his item on the night's Agenda without giving an explanation as to why it was being removed.

Commissioner Cross moved, seconded by Commissioner Barnes, that an applicant be required to provide a reason when asked to defer a vote on an item.

Commissioner Emerson asked if he would amend the motion to include where it would be a capital violation of attorney/client privilege.

Commissioner Cross concurred to amend the motion as requested.

The Chairman called the question.

The motion carried four (4) to zero (0).

ADJOURNMENT

Commissioner Emerson moved, seconded by Commissioner Cross, to adjourn the regular meeting. The motion carried five (5) to zero (0), and the meeting was adjourned at 6:51 PM.

Bunkey Morgan, Chairman

ATTEST:

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