

**MINUTES  
CHATHAM COUNTY BOARD OF COMMISSIONERS  
WORK SESSION  
SEPTEMBER 18, 2006**

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The Board of Commissioners (“the Board”) of the County of Chatham, North Carolina, met in the Henry H. Dunlap Jr. Building Classroom, located in Pittsboro, North Carolina, at 2:00 PM on September 18, 2006.

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

The meeting was called to order by the Chairman at 2:09 PM.

The County Manager reviewed the Work Session agenda.

*Work Session*

1. Harnett Water Contracts
2. Board of Education: Lease/purchase options on buildings discussion
3. Conflict of interest discussion re: storage building on Martha’s Chapel Road
4. Variance inquiry update (House Property)
5. Board of Adjustment review of process
6. Chatham Hospital closing
7. School leasing agency agreements: Cross Elementary & Jordan Matthews
8. NCDOT traffic light reimbursement agreement
9. Economic incentives proposed for ISP

**HARNETT COUNTY WATER CONTRACTS**

George Lucier, Commissioner-elect, distributed written comments expressing the opinions of Carl Thompson, Tom Vanderbeck and himself on the perceived “rush” decision to approve the Harnett County Water Contract by the Chatham County Board of Commissioners. He urged the Board to not approve any contracts with Harnett County until the citizens of Chatham County have an opportunity to provide input on an issue that is extraordinarily important for the citizens’ quality of life and their finances. A copy of his comments are attached hereto and by reference made a part hereof.

Chairman Morgan stated that water had been a topic of discussion since he had been on the Board; that the Board has considered options; that they have looked at OWASA; and that they have talked with Lee County.

Fred Hobbs, Hobbs, Upchurch & Associates, P.A. stated that there have been several overtures made, one of which was a public meeting initiated approximately five years prior at Central Carolina

Community College that brought OWASA, Durham County and all of their elected officials together; that what was said at that meeting was what they saw happening from the discussion with the Division of Water Resources and the Army Corps of Engineers was as follows: 1) The Corps said that there would be only two intakes on the lake. They then have vested control of deciding how allocation is made to the Division of Water Resources at the State. That they were fearful that the opportunity to access Jordan Lake may be compromised; that they OWASA and Durham County then and as recently as within the last year and both entities said that they have enough water for the foreseeable future and they also have allocations into the lake; that an interesting commentary that has come out of negotiations with Harnett County; that the interesting fact that will play into the next round of allocations is that the Division of Water Resources has rendered an opinion that in the next round of allocations downstream users can be allocation holders; that heretofore, it was not believed that that was the case; that now Harnett County, Fayetteville, Wilmington can be an allocation holder; that they think from their conversations with Harnett County, Chatham is in a stronger position with multiple service contracts that Harnett County holds to be in a regional partnership for additional allocations with them as opposed to with OWASA and Durham who already say that they have allocations that they don't need; that he believes the County may have a stronger regional ally because they have contracts in hand and they multiple entities that they service (Fort Bragg, Johnston County and Wake County); that there have been overtures and numerous meetings, but that he feels that regionally, the County may be stronger as a downstream user on the next round of allocations.

The Finance Officer reviewed Utility Capital Projects regarding the Harnett County connection presented in May, 2006. She stated that availability fees were coming in as predicted; that the two cents will have to be committed; that this has been done for the last several years; that the utility operating transfer will have to be done; that this was the purpose of raising the water rates; and that she feels that everything that was said in May was still true today.

A copy of the projects is attached hereto and by reference made a part hereof.

Roy Lowder stated that it was the consensus of the Water Board that Harnett County is the way to proceed.

Commissioner Cross stated that he believes that there may be some economic development opportunity out of this contract.

Commissioner Barnes stated that he feels the County needs a Public Works Department with a professional engineer leading it; that that is where the question should have been resolved some time back; that the County hasn't done anything that it needed to in order to up the intake from Cary; that that is a planning and engineering process; that he hopes that it can be implemented soon; that the County needs water; that short-term is going to Harnett County to get it; that he doesn't feel that there is another option at the moment; and that the County will have the option to sell some of its investment in Harnett water in the coming years, as he understands it, the County will have the right to do so.

The County Manager stated that in the future, there will be pump station design changes and upgrades on the facility because of the different demands of the water system from Harnett County; that Chatham County will participate in that on a pro rata share with the other entities that are involved with the contracts with capacity from Harnett County; that a proposal will be returned for a "sinking fund" so that they help defer those costs before the County gets there; that sometime there will be a pump station change and the County will participate in a pro rata share of pay; and that a proposal will be returned to add the per 1,000 gallon charge.

After considerable discussion, Chairman Morgan moved, seconded by Commissioner Emerson, to approve the Harnett County Water Supply Capacity Contract, attached hereto and by reference made a part hereof. The motion carried five (5) to zero (0).

Chairman Morgan moved, seconded by Commissioner Emerson, to approve the Harnett County

Water Purchase Contract, attached hereto and by reference made a part hereof. The motion carried five (5) to zero (0).

Commissioner Emerson moved, seconded by Commissioner Cross, to approve the Chatham/Harnett Transmission Mains, Pumping Facilities and Storage Facilities Professional Services Contract in the amount of \$107,000.00. The motion carried five (5) to zero (0).

## **BOARD OF EDUCATION**

Mark Sealey, gave an overview of the capital lease financing for public schools stating that in August, 2006, Senate Bill 2009, enacted a new law which allows school systems to enter into capital leases for school facilities; that the law also provides the school system with the ability to enter into a variety of school facility operating agreements; that once the school system has selected a developer for their project(s), they would enter into a pre-development agreement with the developer; that in the predevelopment phase of the project, the developer would acquire land, design, permit, and bid the project (s); that once a lease price is determined, the school system would consider whether the lease is in its best interest; that if a lease between the school system and the developer is agreed upon, the developer will construct the project(s); that the owner would not begin paying lease payments until occupancy; that the school system would have the option to require the developer, as part of the lease, to provide energy usage guarantees, maintenance, and custodial cost guarantees along with other guarantees and/or services as negotiated.

After considerable discussion, Commissioner Barnes suggested that the matter be discussed in Closed Session.

Chairman Morgan stated that there was a lot that the Board needed to know about this issue before a commitment could be made. A discussion on timing and funds ensued. He stated that if the Board of Education would like to meet with the Board of Commissioners, a special meeting could be called.

## **BREAK**

The Chairman called for a short break.

## **ECONOMIC INCENTIVES**

Tony Tucker, Economic Development President, requested economic incentives assistance from the Chatham County Board of Commissioners for International Specialty Products (ISP) if the company decides to locate a new manufacturing plant in Siler City. He stated that ISP is thoroughly researching economic incentives and various permits in several states before making a decision on where to locate its new Southeastern facility; that for more than 80 years, ISP Mineral Products has been a leading producer of colored mineral granules for the North American residential and commercial roofing markets; that they are committed to maintaining the highest standards of occupational and environmental safety; that the company expects its capital investment in the new plant to exceed \$100 million; that the facility would create between 125 and 150 quality jobs representing more than \$5 million in annual salaries and benefits; that the projected hourly wages would range from \$15-20 and management salaries from \$40,000-100,000; that they anticipate the plant would generate another one million per year in revenues for the community through purchases and involvement in local activities.

Dennis Wicker, attorney for ISP, explained the benefits to the County of offering incentives for ISP location in Siler City. He stated that this is not a done deal; that incentives are designed to encourage an industry to locate in the community; that the company is in the process of trying to determine the best location and is looking at other sites in the southeast; that this is not something that is going to happen for sure; that the incentives adopted as a policy in the County, are hopefully going to help them make a decision, once they have all the facts, as to whether to locate there in the best interest of the company; that there have been tough economic times in Siler City; that they would like to see the area revitalized; that

ISP is a quality company; that they become part of the community in which they are located; that they are good folks; that there are other considerations; and that incentives would be a strong encouragement for ISP to locate in the County.

After considerable discussion, Commissioner Outz moved, seconded by Commissioner Emerson, to hold a public hearing on October 16, 2006 on whether to offer an incentive policy for International Specialty Products (ISP). The motion carried five (5) to zero (0).

## **PLANNING ISSUES**

Keith Megginson, Planning Director, explained that his office had received an appeal of a decision; that the request is for the Board of Commissioners to meet as the Zoning Board of Adjustment; that the hearing has been scheduled for October 2, 2006 after the completion of the regularly scheduled Board meeting; that this requires that all Board members be sworn in as the Zoning Board of Adjustment.

### **Zoning Board of Adjustment:**

Angela Birchett, Chatham County Land Use Administrator II and Notary Public, administered the oaths to Chairman Bunkey Morgan, Commissioner Thomas J. Emerson, Commissioner Mike Cross, Commissioner Patrick H. Barnes, and Commissioner Carl Outz as the Zoning Board of Adjustment.

Copies of the oaths are attached hereto and by reference made a part hereof.

Mr. Megginson reviewed the rules for the Zoning Board of Adjustment. He stated that they are quasi-judicial meetings; that testimony is given under oath; that because they are quasi-judicial and the nature of this particular request is an appeal, the Board has to look at only the facts; that the matter should not be discussed prior to the meeting; that witnesses will be in attendance to participate at the meeting; that there will be at least three parties involved in the item; and that since this is an appeal, in order to overturn the decision, there has to be a four fifths vote and not a simple majority vote in order to overturn a decision that has been made.

### **Variance Inquiry Update (House Property):**

Mr. Megginson explained that the House issue is a request to change the County's Zoning Ordinance to a reduced amount of acreage in a campground down to ten acres from twenty acres. A question was raised if a variance could be granted; that State law specially states that a use variance can not be granted; that there are other ways to restrict the applicability of that particular amendment if one is interested in adopting it; that the area within which that is applicable could be restricted; and that it would need to have boundaries that are specifically defined.

### **Conflict of Interest on Storage Building on Martha's Chapel Road:**

Mr. Megginson stated that the State Legislature this year adopted wording to address situations of possible conflict; that it states that if an objection is raised to a member's participation due to possible conflict and said member does not recuse him/herself, the remaining members by a majority vote will rule on the objection; that the statute is silent on who can object; that since an objection was raised during the public hearing with regard to Chairman Morgan's participation because of familial and business relationships, the remaining four Commissioners need to vote on whether or not Chairman Morgan can participate in the issue; that staff talked with the County Attorney's Office on whether there is, in fact, a conflict; that typically, if there is a conflict, one is prejudiced in their favor; and that one wouldn't vote for something that would harm themselves.

Attorney Bob Gunn stated that the Planning Director had adequately covered the subject; that approval of the particular request according to those in opposition would be to the detriment to adjacent and nearby landowners therefore adversely impacting the Morgan Family; and that he did not see that it

would be a conflict of interest for Chairman Morgan to participate on the issue. He stated that if the Board wishes to decide on the issue, that there is no reason that it can not be taken up at this point and voted upon.

Attorney Paul Messick concurred.

Chairman Morgan stated that he did not feel he had a conflict of interest.

Commissioner Emerson moved, seconded by Commissioner Cross, that Chairman Morgan does not have a conflict of interest in this matter and should therefore be allowed to participate in the decision-making and vote of this issue.

Commissioner Barnes stated that he did not know if there is a conflict of interest, that he thinks that whether there is or is not a conflict, he would not get in the legal tangle; and that for the public's interest and the public's peace of mind, he felt that it would be best for the Chairman to recuse himself.

Commissioner Emerson called the question.

The motion carried three (3) to one (1) with Commissioner Barnes opposing.

The Planning Director cautioned the Board and Commissioners-elect to refrain from making comments on issues scheduled for quasi-judicial hearings tonight as they might be deciding on those items in the future, stating that if those statements reflect a fixed opinion that is not susceptible to change and then the item was approved or disapproved, it could be challenged in the future if there is participation in the decision on them.

## **BOARD OF COMMISSIONERS' MATTERS**

### **Joint Meeting with Cary:**

Mr. Megginson explained that they were in the process of setting up the second meeting regarding the joint land use draft plans for Chatham/Cary defined area. He asked if the Board wanted to hold the meeting in Chatham County stating that North Chatham Elementary School was available on several dates in October, but that it was unavailable on November 1 or 2.

By consensus, the Board decided to have the meeting Chatham County, stating that they preferred that it not be on a Wednesday; and asked that the Planning Director let them know when it could be held in October.

### **NC. Department of Transportation Traffic Light:**

The Finance Officer explained that the North Carolina Department of Transportation is requiring the County to post a bond to ensure that the County will have the available funds in the year 2020 for a traffic light at the intersection to the Central Carolina Business Campus; that the bond has been acquired through Brewer Insurance Agency; and that a reimbursement agreement needs to be signed stating that the Board has adopted the plan and agreed to put up a traffic light, if needed.

Commissioner Emerson moved, seconded by Commissioner Cross, to approve the Reimbursement Agreement between the North Carolina Department of Transportation and the County of Chatham, attached hereto and by reference made a part hereof. The motion carried five (5) to zero (0).

### **Business Park Ribbon Cutting:**

The Chairman stated that the official ribbon cutting for the Central Carolina Business Campus will be held on Wednesday, September 20, 2006, 10:00 AM on the campus location.

### **Goldston Fire Department:**

The Finance Officer explained that the Goldston Fire Department had already been approved to hold their public hearing on the purchase of a pumper tanker; that there was no one present to object; that they now need the Board to adopt a resolution approving the borrowing of the funds for the 106HME Pumper Tanker in the amount of \$213,398.00; and that they have assured staff that a tax increase will not be needed to cover the expense.

Commissioner Emerson moved, seconded by Chairman Morgan, to approve **Resolution #2006-52 Approving a Tax Exempt Loan to Goldston Volunteer Fire Department, Inc.**, attached hereto and by reference made a part hereof. The motion carried five (5) to zero (0).

### **Lease Between Chatham County and the Chatham County Board of Education:**

The County Manager distributed a lease which is part of the COPS financing required by the Bond Council.

Paul Messick, Attorney, explained that the lease was the second draft of the document; that it contemplates an agency agreement between the County and the Board of Education where the Board has designated them to be their agent in terms of the construction of the Cross Elementary School and the improvements to Jordan Matthews High School; that the Board of Commissioners own the property by virtue of deed from the Board of Education; that the Board of Commissioners is appointing the Board of Education of their agent in order to build the school and do the improvements; that the lease is the arrangement by which the Board of Commissioners, since they now own the property, lease it back to the Board of Education in order for them to operate the schools on these particular sites; and that it is his understanding that the Board of Education has no objection to this.

Commissioner Emerson moved, seconded by Commissioner Cross, to approve the Lease by and between the County of Chatham, North Carolina as Lessor and the Chatham County Board of Education as Lessee, attached hereto and by reference made a part hereof. The motion carried five (5) to zero (0).

### **Harnett County Contract:**

The County Manager explained that Bond Council suggested an amendment addition to the Harnett County Contract for the COPS financing project which states that Chatham County, in the future, could assign its rights under the capacity contract in order to pledge as collateral in future financing.

Commissioner Emerson moved, seconded by Commissioner Outz, to approve the Rider to the Harnett County Capacity Contract for future financing. The motion carried five (5) to zero (0).

### **Appearance Commission:**

Chairman Morgan moved, seconded by Commissioner Barnes, to appoint Carol McNeel, 11409 Governor's Drive, Chapel Hill, NC, to the Chatham County Appearance Commission. The motion carried five (5) to zero (0).

### **Mid-Carolina Workforce Development Board:**

Commissioner Emerson moved, seconded by Commissioner Outz, to reappoint John Jabbusch, PO Box 318, Siler City, NC, to the Mid-Carolina Workforce Development Board. The motion carried five (5) to zero (0).

### **Consent Agenda:**

Commissioner Cross asked that Item #11, Consideration of a request by Belmeade Farms, LLC for

subdivision sketch design approval of “**Belmeade**”, consisting of 197 lots on 556 acres, located off Highway #64 and SR #2161, Aldolph Taylor Road, Center Township, be removed from the Consent Agenda and placed on the Regular Agenda for discussion.

**SOUTHEAST CHATHAM WATER DISTRICT**

Commissioner Emerson moved, seconded by Commissioner Cross, to recess as the Chatham County Board of Commissioners. The motion carried five (5) to zero (0).

**\*See minutes of the Southeast Water District Board for action taken.**

**REGULAR SESSION**

Commissioner Emerson moved, seconded by Commissioner Cross, to reconvene as the Chatham County Board of Commissioners. The motion carried five (5) to zero (0).

**COMMISSIONER COMMENTS**

- Commissioner Barnes stated that he thought that the night’s Board of Commissioners’ meeting should be recessed no later than 10:00 PM and continued on Tuesday, September 19, 2006.

By consensus, the Board agreed.

**ADJOURNMENT**

The Chairman adjourned the Work Session at 4:46 PM.

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Bunkey Morgan, Chairman

ATTEST:

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