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Chowan County Planning Board
July 21, 2015
Chowan County Public Safety Center
305 West Freemason Street
7:00 pm

Acting Chair Patti Kersey called the meeting to order.

Planner Elizabeth Bryant called the roll; Jim Leggett, Bobby Winborne, Patti Kersey, Jim Robison, William Monds and Marvin Hare were present.

Mr. Robison moved to approve the agenda. Mr. Leggett seconded the motion. The motion carried unanimously. (6-0)

Mr. Robison moved to approve the minutes as submitted. Mr. Hare seconded the motion. The motion carried unanimously. (6-0)

Ms. Kersey suggested limiting the night's meeting to 9pm due to the robust agenda. The rest of the Planning Board agreed to limit the meeting to 9pm.

Ms. Kersey noted the next item on the agenda, **Review and Discussion of Proposed Amendment to Section 2.02 of the Chowan County Development Code as it pertains to the Administration of the Ordinance by the Planning Board (Including the requested opinions from the Chowan County Attorney); Scheduling of Public Hearing on Proposed Amendment.**

Ms. Bryant stated that she had made the revisions suggested by the Planning Board at the last meeting to Section 2.02 as it pertains to the administration of the Ordinance by the Planning Board. She stated that there was a change that was made to Section F, item 3 that was not included in the meeting packets due to the fact that she had not received the opinion from the County Attorney until after the packets were sent out. She stated that Ms. Womble (County Attorney) stated that while there was nothing concrete that could prohibit the Planning Board from making the suggested changes to the Ordinance and presenting it to the Commissioners that she as County Attorney would recommend to the Commissioners that they not approve that modification mainly because there is a duty or obligation on elected officials to vote unless there is reason for recusal. Ms. Womble's opinion is that the obligation translates further through the elected officials' appointments to advisory committees. Ms. Womble also pointed out that since the new district

appointment map was adopted, if a chairperson was unable to vote the Board would be limiting that region's voting presence on the Planning Board.

Mr. Hare stated that he understood Ms. Womble's opinion but that he did not agree with it.

Ms. Bryant stated that the second change from the material included in the meeting packets was to Section F, item 5(a). She stated that although it was discovered that language existed in the Chowan County Zoning Ordinance that reflected NCGS 153A-340 (g), she felt it was a point of clarity to alter the language in this section to state that if the member is reasonably likely to have a direct, substantial and readily identifiable financial interest in the outcome of the matter at issue that member shall not vote rather than just offering themselves up for recusal.

Mr. Robison stated that it was explained to him by the County Attorney that if a board member voted on an issue that they had a direct financial interest in it was considered a criminal offense.

There was some discussion on whether or not all the board members received the updated materials prior to the meeting.

Ms. Bryant stated that if the Board was not comfortable considering the amendments at this meeting they could table it until the August meeting.

Ms. Kersey made a motion to accept the explanation of the County Attorney regarding the Chair voting and strike the amendment to Section F, item 3 and return to the original language. Mr. Robison seconded the motion.

Mr. Hare restated that he understood the County Attorney's opinion but that it was only her opinion and that he did not agree with it. He stated that he would like the amendment presented as it is written to the Commissioners.

Mr. Leggett stated that he agreed with Mr. Hare and that he felt that the Chair should only vote in the event of a tie.

Mr. Robison stated that after reading the Rules of Procedure it was his opinion that on a Board with 7 people everyone should have a vote all the time.

Mr. Winborne stated the importance of not having a tied vote.

Ms. Kersey stated that the new districting regulations for planning board appointments diminishes representation and pointed out that there was rarely a tied vote.

Ms. Bryant stated that in the instance of a tied vote, the case could still be sent on to the Board of Commissioners with a "no decision." She stated that if there was no chance that the Planning Board members could agree on a decision that the Commissioners could not

place an undue burden on the applicant to wait for the appointment of another planning board member to break the tie and the Commissioners would go ahead and make their decision without a recommendation from the Planning Board.

Mr. Monds stated that he would like to leave the amendment as written and let the Board of Commissioners decide.

Ms. Kersey stated that if the chair could not vote it could discourage some very capable people from serving as chair.

There being no further discussion, Ms. Kersey called for a vote.

The motion failed 2-4 with Mr. Monds, Mr. Winborne, Mr. Leggett, and Mr. Hare opposing.

Ms. Kersey moved that the board accept Section F, item 5(a) as amended to reflect NCGS 153A-340(g). Mr. Robison seconded the motion. The motion carried unanimously. (6-0)

Ms. Bryant stated that the Board of Commissioners had extended an invitation to the Planning Board to attend their August 3rd meeting. She stated that the Commissioners would be reviewing the recommended changes to the County's Wind Ordinance as well as appointing a new planning board member to fill Lou Sarratt's vacancy and considering Ms. Kersey's reappointment.

Mr. Winborne moved that all other highlighted changes to Section 2.02 be recommended to the Board of Commissioners for approval. Ms. Kersey seconded the motion. The motion carried 5-1 with Mr. Robison opposing.

Ms. Kersey stated that the next item was the Review and Discussion of Planning Board Rules & Procedures.

Ms. Bryant stated that she had gone through and flagged portions of the Rules & Procedures that she thought that the Board did not need to consider because they were already addressed in the Ordinance but that the Board was welcome to discuss any portions that they felt needed to be addressed.

Ms. Kersey noted the first item up for discussion, **Rule 4. Agenda.**

Ms. Bryant noted that at the previous meeting the Board had decided to discuss and vote on each rule individually.

There was some discussion on whether or not to consider each rule individually or as a group. It was decided to discuss each rule individually.

Ms. Kersey asked for any comments regarding Rule 4.

Mr. Hare stated that Rule 4 was basically what the Board was already doing.

Ms. Kersey stated that she liked the idea of designating certain agenda items “for discussion and possible action” meaning that the Board intends to discuss the general subject area of that agenda item before making any motion concerning that item.

(tape ended, had to be flipped)

Ms. Kersey moved to accept Rule 4 as written. Mr. Leggett seconded the motion. The motion carried unanimously. (6-0)

Ms. Kersey noted the next item up for discussion, **Rule 5. Public Address to the Board.**

Ms. Kersey stated that she felt that the Board acted according to this rule already. She asked for any further discussion.

Ms. Bryant asked the Board if they would like to have any individual who wished to address the Board record their name on a sign-up sheet at each meeting or only have a sign-up sheet in the instance of a large crowd.

Ms. Kersey stated that she felt a sign-up sheet would only be necessary in the instance of a large crowd.

Mr. Robison moved that Rule 5 be adopted as written stating that he felt that the sign-up sheet issue was addressed in the language already. Mr. Hare seconded the motion. The motion carried unanimously. (6-0)

Ms. Kersey noted the next item up for discussion, **Rule 6. Order of Business.**

Ms. Kersey asked for any discussion.

Mr. Winborne asked if “Public Hearing” should be changed to “Public Comment” in the Planning Board’s case.

Ms. Bryant stated that was correct and that it would be “Public Comment” except in the case of Special Use Permits when the Planning Board would be conducting a public hearing.

Ms. Kersey moved to accept Rule 6 with the change of “Public Hearing” to “Public Comment”. Mr. Leggett seconded the motion.

Mr. Winborne questioned the public comment period coming after the agenda items.

Ms. Bryant stated that she thought that the language meant that the first public comment period was for items on the agenda and that the “informal discussion and public

comment” period at the end of the meeting was for discussion of other items that needed to be addressed.

Mr. Hare asked Mr. Winborne if he was suggesting that the “informal discussion and public comment” period be dropped.

Mr. Winborne stated that was correct and that he did not see a need for it at the end of the meeting.

Mr. Hare moved to accept Rule 6 with the deletion of “informal discussion and public comment” and changing “public hearing to public comment”. Mr. Winborne seconded the motion.

Mr. Robison stated that the items were just an example of how the meeting should progress. He stated that each item was not required.

Ms. Bryant noted that there were two motions on the floor.

Ms. Kersey retracted her motion.

Mr. Leggett agreed with Mr. Robison that the informal discussion and public comment portion should be left in the language.

Ms. Kersey called for a vote on Mr. Hare’s motion. The vote was tied 3-3 with Mr. Robison, Mr. Leggett, and Ms. Kersey opposing.

Ms. Kersey moved to adopt Rule 6 with the change of “public hearing” to “public comment” and leaving the rest of the language as written. Mr. Leggett seconded the motion.

Mr. Hare stated that he did not agree with Mr. Robison that you could opt not to do the informal discussion and public comment portion if it was stated on the agenda. He stated that he did not read that in the language anywhere.

Mr. Robison stated that that the items were just a sequence of events and that you did not have to do all of them at every meeting.

Ms. Kersey called for a vote. The vote was tied 3-3 with Mr. Hare, Mr. Winborne, and Mr. Monds opposing.

Ms. Kersey stated that the discussion and vote on Rule 6 would be tabled until the August meeting.

Ms. Kersey noted the next item up for discussion, **Rule 7. Presiding Officer.**

Ms. Bryant stated that the first paragraph was addressed in Article II of the Zoning Ordinance but that the rest of the language in Rule 7 needed to be addressed.

Mr. Hare asked if everyone understood the language that “In order to address the board, a member must be recognized by the chair”. Mr. Hare stated that he agreed with that.

Ms. Kersey stated she was fine with less formality unless the board felt it was necessary to be more formal and have the requirement that the chair recognize a member before they address the board.

Mr. Robison stated that this language was revising Roberts Rules of Order which was designed for large bodies. He stated that this language just gives a framework for how to proceed which the Planning Board has never had before. He stated that the rules had been tried and tested by many boards throughout the country and the world.

Mr. Robison moved to accept all the rules as they are. The motion died for lack of a second.

Mr. Winborne stated that he agreed with Mr. Hare that the Chair should have some means of maintaining control of the meeting.

Mr. Leggett agreed that the meeting could get out of hand with many members speaking at once.

Ms. Kersey moved to accept the portion of Rule 7 that was not addressed in Article II of the Zoning Ordinance. Mr. Leggett seconded the motion. The motion carried unanimously. (6-0)

Ms. Kersey noted the next item up for discussion, **Rule 8. Action by the Board.**

Ms. Kersey made a motion to adopt Rule 8 as written. Mr. Leggett seconded the motion. The motion carried unanimously. (6-0)

Ms. Kersey noted the next item up for discussion, **Rule 10. One Motion at a Time.**

Mr. Robison moved that Rule 10 be accepted as written. Mr. Leggett seconded the motion. The motion carried unanimously. (6-0)

Ms. Kersey noted the next item up for discussion, **Rule 11. Substantive Motions.**

Ms. Kersey stated that a substantive motion is a basic motion and a procedural motion acts upon a substantive motion by amending the language.

Ms. Bryant stated than example would be like earlier in the meeting when there was a motion on the floor and then another motion came right behind it and the first motion was retracted. She stated that what could have happened was that a motion to amend the

previous motion could have been made. She stated that a substantive motion and a procedural motion could be on the floor at the same time but that two substantive motions could not be.

Ms. Kersey moved that Rule 11 be accepted as written. Mr. Leggett seconded the motion.

Mr. Hare stated that he did not understand the terminology.

Ms. Kersey called for a vote. The motion carried 5-1 with Mr. Hare opposing.

Ms. Kersey noted the next item up for discussion, **Rule 13. Voting by Written Ballot.**

Mr. Robison stated that the only reason this rule exists is because of public record laws and that this rule gives instruction on how to handle written ballots if it is ever done.

There was some discussion on why a written ballot would be used.

Mr. Leggett moved to adopt Rule 13 as written. Mr. Robison seconded the motion. The motion carried 4-2 with Mr. Monds and Mr. Winborne opposing.

Ms. Kersey noted the next item up for discussion, **Rule 14. Debate.**

Mr. Winborne stated that he would like the word “debate” to be replaced with “discussion”.

Mr. Hare stated that he liked the rule and the fact that it gave the chair some authority and ensured that everyone had a chance to speak.

Mr. Hare moved to approve Rule 14 as written. Ms. Kersey seconded the motion. The motion carried unanimously. (6-0)

Ms. Kersey noted the next item up for discussion, **Rule 15. Ratification of Actions.**

Ms. Kersey recommended that Rule 15 be omitted.

Ms. Bryant stated that she did not think that the Board would have any actions taken on their behalf outside of a Planning Board meeting.

Mr. Hare moved that Rule 15 be omitted. Mr. Leggett seconded the motion. The motion carried unanimously. (6-0)

Ms. Kersey noted the next item up for discussion, **Rule 16. Procedural Motions.**

Ms. Kersey asked for clarification that the motions listed are the only motions that the Planning Board is authorized to make.

Ms. Bryant stated that is the way she interpreted it.

Ms. Bryant stated that in reviewing motion 17 she was unsure that the Planning Board could prevent reintroduction for six months. She stated that the Planning Board needed to decide whether to omit that motion or get clarification on whether they were authorized to do that.

Mr. Robison stated that six months was just an arbitrary number.

Ms. Bryant stated that six months could be changed to a different number.

There was some discussion over whether the Planning Board could prevent the reintroduction of a motion.

Mr. Robison stated that it was just a procedural item that prevented the same motion from being reintroduced over and over again. Mr. Robison suggested leaving the motion in and changing the six month time frame to one month.

Mr. Winborne questioned motions 6 & 7, asking when the Planning Board would need to go into closed session.

Ms. Bryant stated that the Planning Board would not need to go into closed session. She stated that those motions apply to the governing body. She stated that motions 6 & 7 could be deleted.

(tape ended, changed tapes)

Mr. Robison moved to adopt rule 16 with the deletion of motions 6 & 7 and changing motion 17 to read “one month” instead of “six months”. Ms. Kersey seconded the motion. The motion carried 5-1 with Mr. Hare opposing.

Ms. Kersey noted the next item up for discussion, **Rule 17. Renewal of Motion.**

Mr. Winborne asked for clarification on the difference between a motion to reconsider and the renewal of a motion.

Mr. Robison stated that Rule 17 was basically giving someone the chance to bring up a motion again if they felt it was necessary. He stated that in the one month’s interim something may have changed and may have changed people’s opinion on the matter.

Mr. Winborne stated that in his opinion if the majority had ruled on a motion it should not be renewed.

Mr. Robison moved that Rule 17 be approved as written. Mr. Leggett seconded the motion. The motion carried 5-1 with Mr. Winborne opposing.

Ms. Kersey noted the next item up for discussion, **Rule 18. Withdrawal of Motion.**

Mr. Winborne asked for clarification that a motion can be withdrawn before it is amended.

Ms. Bryant stated that was correct.

Ms. Kersey moved that Rule 18 be approved as written. Mr. Robison seconded the motion. The motion carried unanimously. (6-0)

Ms. Kersey noted the next item up for discussion, **Rule 19. Duty to Vote.**

Mr. Hare asked if this rule was covered in the Zoning Ordinance.

Ms. Bryant suggested leaving Rule 19 in and including language referencing the Zoning Ordinance or General Statutes. She stated that Rule 19 gave the procedure for excusing a board member from voting.

After consulting the Zoning Ordinance it was determined that language addressing “Duty to Vote” already existed.

Mr. Robison moved to delete Rule 19 and insert a reference to the appropriate section in the Zoning Ordinance in its place. Ms. Kersey seconded the motion. The motion carried unanimously. (6-0)

Ms. Kersey noted the next item up for discussion, **Rule 20. Special Rules of Procedure.**

Ms. Kersey asked for clarification on the meaning of special rules of procedure.

Mr. Robison stated that Rule 20 stated that if you wanted to change the rules that you could change the rules.

Ms. Bryant gave the example of electing a chairperson, stating that if the Board wished to vote by written ballot in that instance they could decide to do that.

Mr. Winborne asked why the Board was bothering to go through all the rules if the Board had the authority to change them at any time anyway.

Mr. Robison stated that the rules gave the Board a basis on which to proceed. He stated that Rule 20 gave the Board the ability to change the rules if a particular situation called for it.

Mr. Winborne moved to delete Rule 20. Mr. Monds seconded the motion.

Mr. Leggett agreed that it made sense to take out Rule 20.

Ms. Kersey asked if Rule 20 was deleted and then the Planning Board decided that they wanted to change the way the Board elected the Chair, how would that be handled.

Ms. Bryant stated that the way she interpreted Rule 20 was that it provided a place for the Board to insert specific rules of procedure for certain situations. She stated that if it was deleted then there were no special rules of procedure and that it was at the discretion of the Board.

Ms. Kersey called for a vote on Mr. Winborne's motion.

The motion carried 4-2 with Mr. Robison and Ms. Kersey opposing.

Mr. Robison moved that the meeting be adjourned and to finish reviewing the remainder of the rules at the next meeting. (Mr. Robison then left the meeting.)

Mr. Hare stated that the Board was close to finishing reviewing the rules and recommended finishing up at this meeting.

Ms. Kersey called for a vote on Mr. Robison's motion. The motion carried 3-2 with Mr. Hare and Mr. Monds opposing.

There being no further business, the meeting was adjourned.