

Regular Meeting
Monday, February 1, 2016
Chowan County Public Safety Center
305 West Freemason St.
Edenton, NC
6:00pm

This meeting was recorded, a copy of the recording is in the meeting file labeled February 1, 2016.

Present: Chairman Jeff Smith, Commissioners Keith Nixon, Greg Bonner, Alex Kehayes, Emmett Winborne and John Mitchener.

Commissioner Lawrence was absent.

Staff present: County Manager Kevin Howard, County Attorney Lauren Arizaga-Womble and Clerk Susanne Stallings.

Chairman Smith called the meeting to order.

Commissioner Mitchener offered the invocation.

Approval of Agenda

(Recording begins during this agenda item)

County Attorney Lauren Womble noted that there have been questions regarding the agenda item "Apex Presentation". She stated her memo that she provided the Board dated October 22, 2015 cautions the Board with regards to information gathering regarding windfarms that potentially will be heard as a Conditional Use Permit, a quasi-judicial matter, where the Board is required to sit as an impartial decision maker. She stated that if the Board hears item number 6, their questions directed should be general to keep clear of conflict.

Commissioner Winborne asked for clarification on who was asking.

Ms. Womble stated that there were email questions from the public and staff.

Commissioner Nixon to eliminate the Board from asking questions, he asked to amend the agenda to remove the Item #6 and allow Apex to speak during public comment.

Commissioner Kehayes asked for clarification on the topic vs. specific information.

Ms. Womble stated that her caution is to keep all discussions general. She stated any information considered during the quasi-judicial hearing has to be made part of the record during the hearing.

Commissioner Nixon stated that anyone can speak during public comment, he then moved to strike item #6 Apex Presentation.

Commissioner Winborne stated that he considers this a business client presenting his plan. He stated that he feels the client is just stating where he stands. He stated this is information for the public to also know. He stated he will vote against removing the item from the agenda.

Commissioner Bonner stated he agreed with Commissioner Winborne, the item is on the agenda to keep the Board abreast on the progress that is ongoing.

Commissioner Mitchener stated he did not see what would be gained by removing the item from the agenda. He stated that having Apex make a presentation is relevant and should be recorded in the minutes.

Chairman Smith stated that he is not allowed to participate in matters pertaining to Apex, he stated he will not be voting on this matter. He passed the gavel to Vice Chairman Nixon.

Commissioner Kehayes asked for clarification that the motion is to remove the item from the agenda and allow Apex to speak during public comment.

Commissioner Nixon stated he understands the position of the Board members but stated he felt this is more sensitive than most matters.

Vice Chairman Nixon asked for all in favor, the motion failed (2-3 Bonner, Winborne and Mitchener). (Smith did not vote).

Commissioner Mitchener moved to approve the agenda as presented. Chairman Smith then asked for all in favor, the motion passed (4-2 Nixon and Kehayes).

Commissioner Mitchener asked if there is a possibility to add additional public comment for the Apex matter.

Ms. Womble stated that this is not a public hearing where an item would require additional public comment. She stated this presentation is general and broad and an update to the Board. She stated the agenda currently meets the legal requirements for public comment periods.

Public Comment

Chairman Smith then opened the floor to public comment.

Brian Ferraraccio 128 Rockfish Edenton NC. He discussed the proposed turbines proposed in Chowan County will be the largest anywhere. He discussed the procedures in place in Denmark that address property values, setbacks and shadow flicker. He stated the existing rules are ineffective and do not have the citizen's best interest at heart. He stated that citizen's wants and needs are not put before a business's wants and needs.

Bob Kirby 236 Whites Landing Road Edenton, stated he is not anti-wind but is pro-Chowan County. He stated that he asked questions about the legal matter concerning Apex presentations. He stated that the County Attorney has stated this, he quoted from the October 22, 2015 memo of

the County Attorney, and she interrupted Apex back in August 2015 and advised the Board to proceed carefully due to the possibility of quasi-judicial hearing in the future and the need for impartiality. He stated the Attorney has asked the Board to be careful. He stated that the Board will taint themselves. He cautioned the Board to be careful in the future. He stated that Apex has presented to the Board 5 times. He noted there is nothing on the table from Apex and the Board is going down a slippery slope by continuing to hear these presentations and the Board will end up in court.

Don Herr 103 Brickell Glade Edenton, NC. He stated he believes in alternate sources of energy. He stated that alternate sources of energy are progressive, and will attract other businesses and bring additional tax revenue to the County. He stated an investment in the County is a good thing and he is in favor of all sources of alternative energy.

Ron Cummings 317 Centerhill Rd. Tyner stated he recently attended discussions of the Energy Council in Raleigh regarding a nuclear program for natural gas of alternative energy for a \$22 million nuclear plant. He stated that the state did not vote on it. He stated the Lt. Governor put off the vote for now. He stated natural gas is very clean and cheap. He stated he is for energy that does not hurt people or take from people. He stated that as a Christian you do not take from people. He stated that the proposed projects will result in a loss to the residents of Chowan County.

Consent Agenda

a. Minutes

Chairman Smith asked if there were any additions or corrections to the minutes of January 19, 2016.

Commissioner Mitchener moved to approve the minutes as presented. Chairman Smith asked for all in favor, the motion passed unanimously (6-0).

Order to Advertise

Interim Tax Administrator William "Pete" Rodda provided the Board with the Order to advertise the 2015 Tax Liens. He stated there is currently \$630,000 outstanding and he stated the collections are at 96.2% collections and that is outstanding for a small county. He stated his thanks for the County residents who have paid their taxes on time. He stated he would like to advertise in April. He asked the Board to adopt the order.

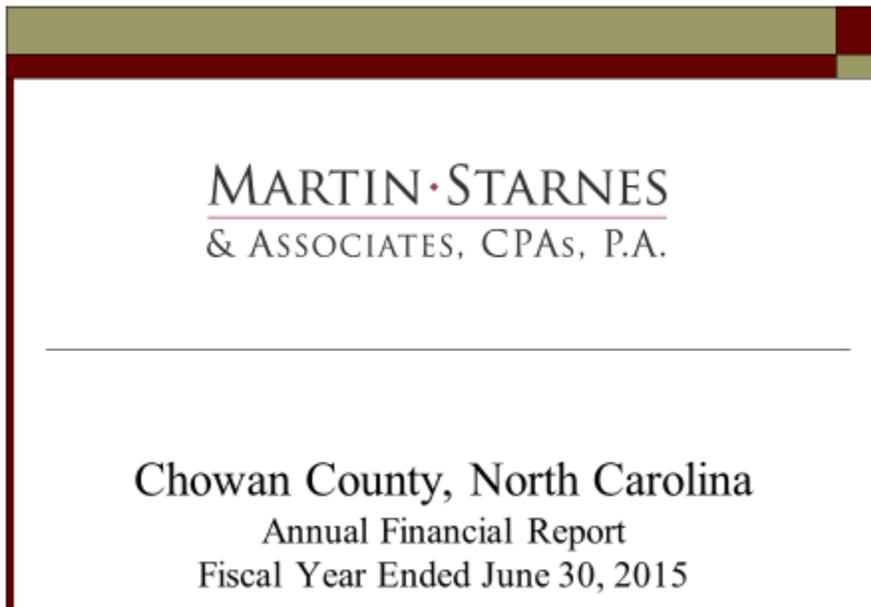
Order to Advertise the 2015 Tax Liens

Upon receipt of the Tax Collector's report of the unpaid 2015 taxes that are a lien on real property in Chowan County and pursuant to North Carolina General Statute 105-369 (a), the Chowan County Board of County Commissioners hereby orders the Tax Collector to advertise these tax liens.

Commissioner Winborne moved to accept the order. Chairman Smith asked for all in favor, the motion passed unanimously (6-0).

FY 2014-15 Audit Report

The County's Auditor, Martin Starnes and Associates, Justin Knight formally presented the FY 2014-15 Independent Audit with financial statements.

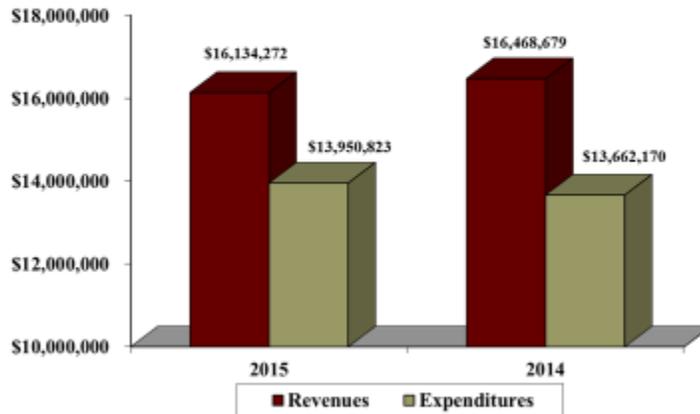


Audit Highlights

- ❑ Unmodified opinion

- ❑ Cooperative staff

General Fund – Operating Summary



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Fund Balance

Available fund balance as defined by the Local Government Commission (LGC) is calculated as follows:

Total Fund Balance

Less: Non spendable (not in cash form, not available)

Less: Stabilization by State Statute (by state law, not available)

Available Fund Balance

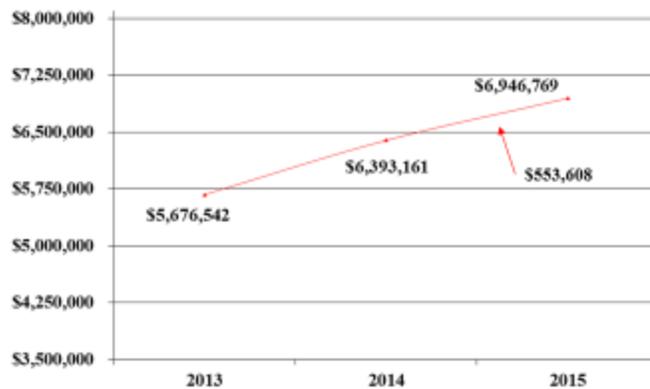
This is the calculation utilized as the basis for comparing you to other units and calculating your fund balance percentages.

Fund Balance Summary for the General Fund

□ General Fund – Operating	\$ 6,946,769
□ Revaluation Fund	\$ 15,108
□ Capital Reserve Fund	\$ 691,358
□ School Capital Reserve Fund	\$ <u>569,092</u>
□ General Fund Consolidated	\$ 8,222,327

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Total Fund Balance General Fund - Operating



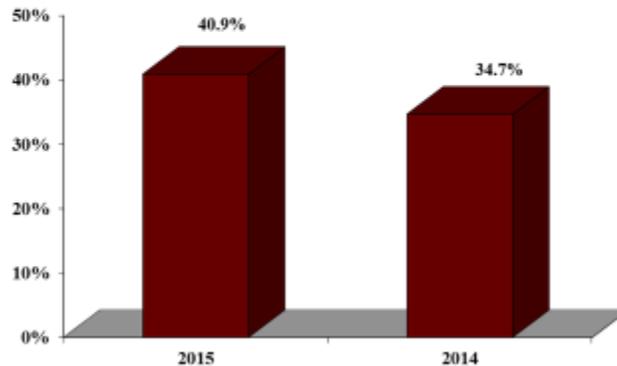
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Fund Balance Position General Fund - Consolidated

□ Total Fund Balance	\$ 8,222,327
□ Non spendable	- 23,250
□ Stabilization by State Statute	<u>- 1,289,119</u>
□ Available Fund Balance	\$ 6,909,958
□ Available Fund Balance 2014	\$ 6,002,891
□ Increase in Available FB	\$ 907,067

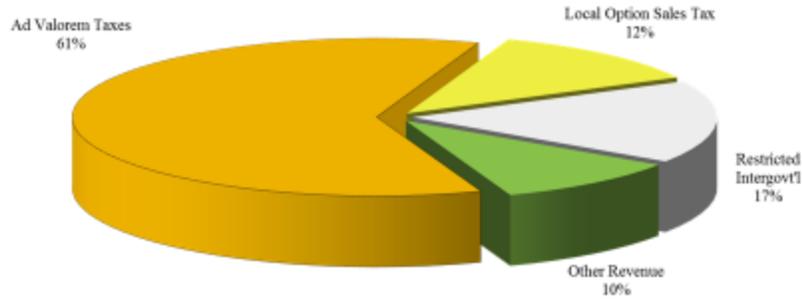
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Available Fund Balance as a Percent of Expenditures and Transfers Out General Fund - Consolidated



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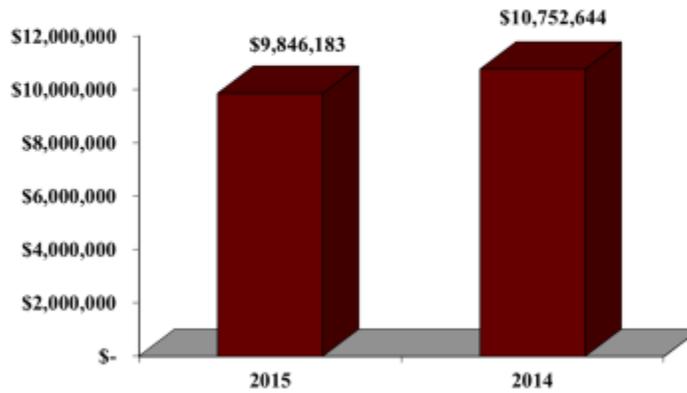
Top 3 Revenues: General Fund - Operating



Top 3 Comprise \$14,561,785 (90%) of Revenues

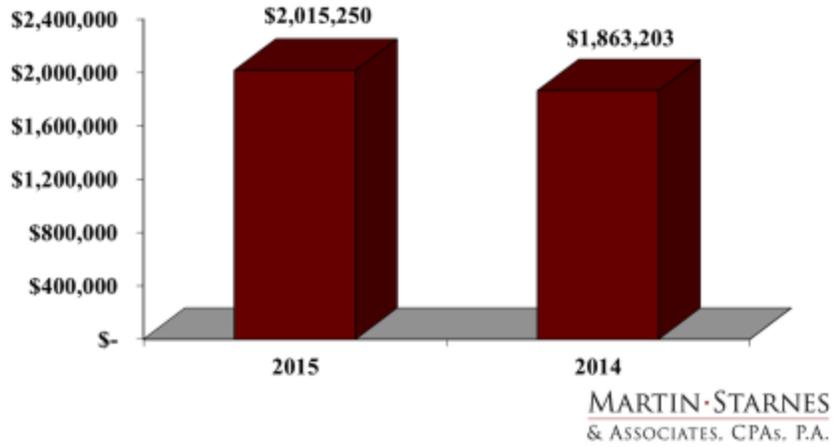
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Property Tax

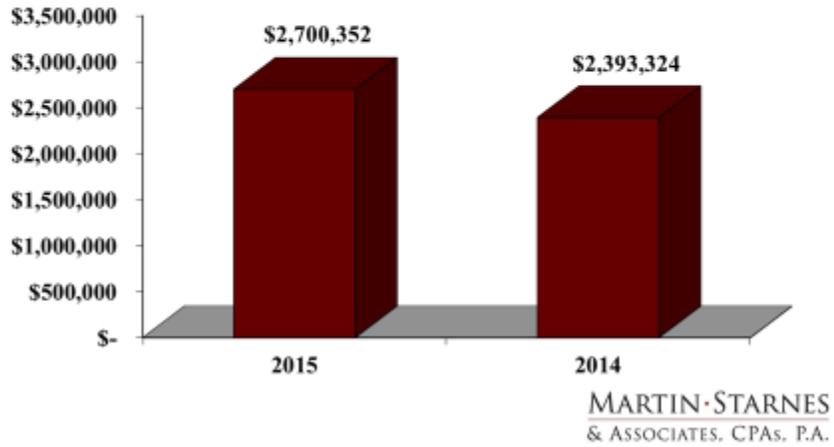


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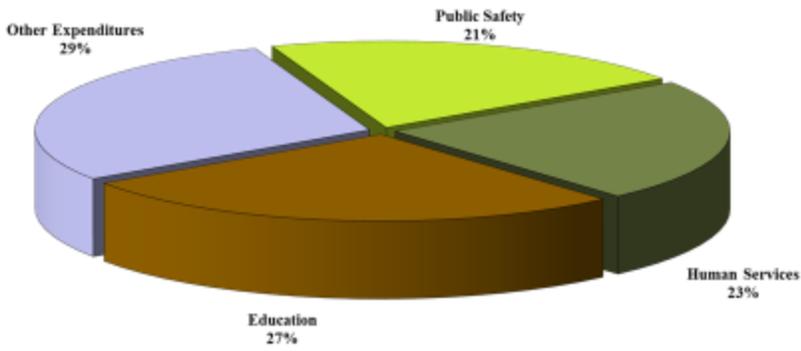
Sales Tax



Restricted Intergovernmental



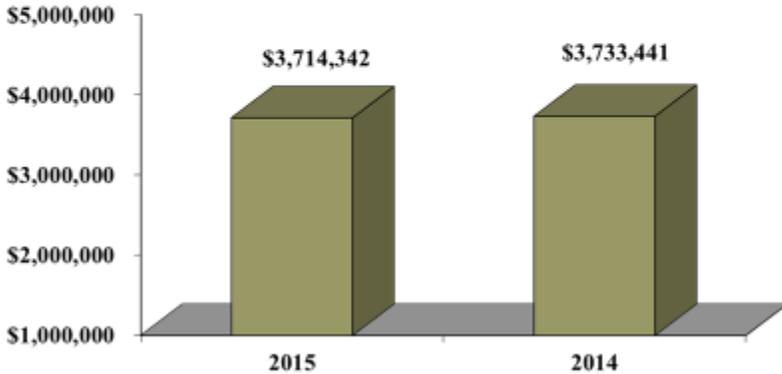
Top 3 Expenditures: General Fund - Operating



Top 3 Comprise \$9,899,902 (71%) of Expenditures

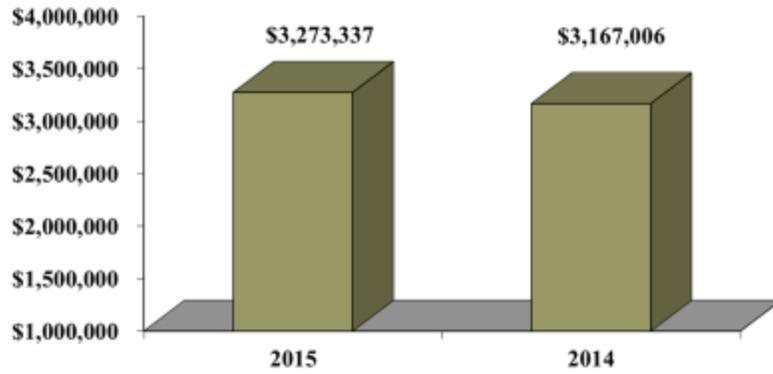
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Education Expenditures



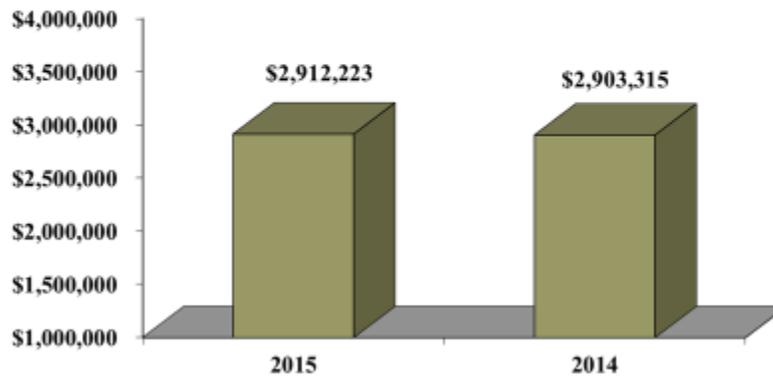
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Human Services Expenditures



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Public Safety Expenditures



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Summary of Enterprise Funds

Net Income (Budgetary Basis)

Water	\$ (119,005)
Solid Waste	41,906
Emergency Medical Services	0
Water Development	38,285

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Enterprise Fund – Water Fund

	<u>2015</u>	<u>2014</u>
Cash	\$ 720,972	\$ 844,741
Unrestricted Net Position	675,441	823,690
Cash flow from operations	56,400	155,453
Debt service requirement	0	0

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Enterprise Fund –Solid Waste Fund

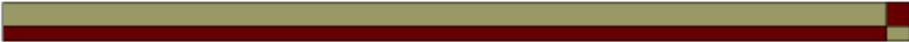
	<u>2015</u>	<u>2014</u>
Cash	\$ 708,901	\$ 678,717
Unrestricted Net Position	745,196	703,290
Cash flow from operations	186,841	181,160
Debt service requirement	0	0

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Enterprise Fund – Emergency Medical Services Fund

	<u>2015</u>	<u>2014</u>
Cash	\$ 0	\$ 0
Unrestricted Net Position	(281,047)	(233,999)
Cash flow from operations	(317,055)	(385,388)
Debt service requirement	0	0

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Water Development Fund

	<u>2015</u>	<u>2014</u>
Cash	\$ 617,463	\$ 579,178
Unrestricted Net Position	617,463	579,178
Cash flow from operations	37,739	(26,839)
Debt service requirement	0	0

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Discussion & Questions

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Chairman Smith noted the fund balance of 39% also includes monies that are restricted and cannot be spent.

Commissioner Nixon clarified the Schools are not required to return County monies and may keep these monies within a fund balance.

Commissioner Winborne commended the work of staff to get the County's finances back in order.

Chairman Smith turned the gavel over to Vice Chairman Nixon.

Vice Chairman Nixon called for a 3 minute recess. After 3 minutes he called the meeting back to order

Apex Presentation

Tyson Utt representing Apex stated that he requested the opportunity to make a brief presentation to the Board and the public on the status of the proposed Wind Energy Project in Chowan County. He stated he did not have a presentation. He stated that Apex hopes to file an application in late spring. He stated that Apex continues to work on obtaining permits and studies that are required.

Vice Chairman Nixon turned the gavel over to Chairman Smith.

Annual Report – Animal Shelter

Animal Shelter Director Dana Goheen provided the Board with the annual report from the Animal Shelter. A copy of her PowerPoint presentation is in the meeting file labeled February 1,

2016. Ms. Goheen as part of her presentation shared a photograph of Jack, a dog owned by Judge Tom Ammons. She noted that each time Jack's name is mentioned in a public forum, Judge Ammons makes a donation to the Shelter.

MS. Goheen shared the successes of renovations at the Shelter and the partnership with AWARE.

Commissioner Nixon stated he was glad to see the improvements at the Shelter. He asked how old Jack was.

Barbara Yates stated that Jack is 5 years old.

Ms. Goheen stated that gravel is again needed for the driveway and the parking lot.

Board members discussed the Shelter look into slag donation from area businesses.

Ms. Goheen stated she is seeking volunteers to manage the website and social media pages for the shelter.

Resolution - Action of Marine Fisheries Commission

Commissioner Mitchener noted that at the last meeting the Board was asked to consider a resolution condemning the action of the NC Marine Fisheries Commission to use the supplement process to restrict southern flounder. He stated this was discussed at a recent meeting of the Albemarle Commission Camden, Currituck, Dare, Hyde, Pasquotank, Tyrrell and Washington Counties.

Commissioner Kehayes moved to adopt the resolution as presented. Chairman Smith asked for all in favor, the motion passed unanimously (6-0).

**A RESOLUTION
CONDEMNING THE ACTION
OF THE NORTH CAROLINA MARINE FISHERIES COMMISSION
TO USE THE SUPPLEMENT PROCESS TO
RESTRICT SOUTHERN FLOUNDER**

WHEREAS, during their November 2015 meeting at Jeannette's Pier, the North Carolina Marine Fisheries Commission (NCMFC) approved using a controversial "Supplement Process" to close down most of the state's fishing for southern flounder; and

WHEREAS, the established procedure for responsible fisheries governance is through the use of a Fisheries Management Plan (FMP), which is designed to incorporate peer reviewed science, stakeholder input, and other pertinent facts to establish fisheries policies in a deliberate, open, and transparent way; and

WHEREAS, instead of relying on a thoroughly vetted Amendment Process to the southern flounder Fisheries Management Plan, the NCMFC chose instead to invoke the use of the Supplement Process in spite of the fact that there is no scientific evidence to support such a drastic measure that will have draconian consequences; and

WHEREAS, when the NCMFC adopted the Supplement Process they violated and misused the statutory authority granted them in NCGS 113-182.1 which requires that the NCMFC provide a position on the supplement based on science from the Division of Marine Fisheries or from independent experts; and

WHEREAS, the North Carolina Marine Fisheries Commission also chose to ignore the will of the people as expressed in resolutions it received prior to their November meeting from the Counties of Bertie, Camden, Carteret, Currituck, Dare, Hyde, Pasquotank, and Tyrrell opposing the use of the Supplement Process to restrict southern flounder; and

WHEREAS, the arbitrary and capricious action taken by NCMFC at its November 2015 meeting threatens to harm North Carolina's commercial fishermen by depriving them of a traditional source of income that is fundamental to sustaining local economies throughout North Carolina's coastal communities without cause; and

WHEREAS, the Chowan County Board of Commissioners stands ready to vigorously support our Working Watermen in their efforts to prevent the implementation of the Supplement Process and asks all coastal communities to join in this endeavor; and.

WHEREAS, the Chowan County Board of Commissioners calls on the North Carolina Marine Fisheries Commission to determine if any changes are in fact needed for the southern flounder Fisheries Management Plan through the established Amendment Process whereby scientific and accurate stock assessment can properly be determined with the benefit of peer review and public input from all stakeholders including elected officials of coastal communities and commercial fishermen;

NOW, THEREFORE, BE IT RESOLVED, that the Chowan County Board of Commissioners strongly urges the North Carolina Marine Fisheries Commission to immediately suspend the use of the Supplement Process for southern flounder and undertake a deliberate, thoughtful, and methodical review of the Fisheries Management Plan to determine what, if any, changes are needed based on peer reviewed science and stakeholder input.

BE IT FURTHER RESOLVED, that the Chowan County Board of Commissioners calls on all coastal communities to adopt similar resolutions supporting North Carolina's working watermen who vitally depend on the southern flounder fishery to provide jobs, generate incomes, provide a freshly caught public trust resource to the tables of North Carolina families, and bolster the economy of North Carolina.

ADOPTED this the 1st day of February, 2016.

Extension Grant Request

Extension Director Mary Morris provided the Board with a request to apply for a grant from Vidanta. She noted that one grant is for Chowan County Youth EFNEP in the amount of \$4,500 and the other grant is for the 4H Jr. Chefs in the amount of \$2000.

Board members clarified that there are no matching funds required.

Commissioner Winborne moved to approve the request to apply as presented. Chairman Smith asked for all in favor, the motion passed unanimously (6-0).

Recreation Positions

Mr. Howard provided the Board with a proposal to realign current positions within the Recreation Department. He noted this realignment would delete the position of Director and create Recreation Superintendent, Recreation Operations Director and Athletic Supervisor. He stated that a new Maintenance position would also be added.

Commissioner Winborne asked if there would be any savings.

Mr. Howard stated it would save around \$2,000 annually.

Commissioner Nixon asked when the new position would be filled.

Mr. Howard stated that he hoped to have it filled by the summer.

Commissioner Winborne moved to approve the plan as presented by the County Manager.

Commissioner Nixon asked if there is a way to revert to the original set-up of one director if this doesn't work out.

Mr. Howard stated he would handle this.

Commissioner Bonner asked if there were any issues with the current personnel.

Mr. Howard stated no, they have tried this for almost one year and it has worked well.

Chairman Smith asked for all in favor of the motion, the motion passed unanimously (6-0).

External Board/Committee Report

Board members are asked to report on the activities of the external boards to which they have been appointed.

Chairman Smith reported on the RPO, and Manager/Chairman meetings.

Commissioner Nixon noted the ECP has hired Wendy Jewett as the new director.

Commissioner Winborne suggested that Ms. Jewett be invited to a future meeting.

Manager's Report

County Manager Kevin Howard updated the Board on the following:

- Issues with the current office space have caused DMV to relocate into a mobile unit. He stated he is working on the Shepard Building, but the offices will be in a temporary mobile unit.

Timely and Important Matters

Hydrilla

Commissioner Mitchener provided the Board with information from the Hydrilla Guerillas a citizens group that is monitoring Hydrilla in Chowan County.

Meeting Schedule

Commissioner Nixon asked the Board to consider looking at the monthly meeting schedule to have the second meeting of the month to be a workession meeting. The matter will be tabled to the next meeting agenda.

DF Walker Letter

Chairman Smith noted the Board members have been provided a copy of a letter regarding the former DF Walker School.

Closed Session

Commissioner Bonner moved to go into closed session in accordance with NCGS143-318.11.a.5 and 6 personnel and contract negotiations.

Chairman Smith asked for all in favor, the motion passed unanimously (6-0)

The minutes of the closed session are sealed.

Commissioner Kehayes moved to come out of closed session. Chairman Smith asked for all in favor, the motion passed unanimously (6-0).

Adjourn

Commissioner Nixon moved to adjourn the meeting. Chairman Smith asked for all in favor, the motion passed unanimously (6-0).

Jeffery Smith, Chairman

Susanne Stallings, Clerk