

Regular Meeting
Monday, March 17, 2014
5:30 pm
Chowan County Public Safety Center
305 West Freemason St. Edenton, NC

MINUTES

The Chowan County Board of Commissioners held their regular meeting at 5:30pm on Monday, March 17, 2014.

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

Commissioner Ellis Lawrence was absent.

Staff present County Manager Kevin Howard, Finance Officer Willie Carawan and Board Clerk Susanne Stallings.

Additional Staff present: County Attorney John Morrison and Associate Lauren Arizaga.

Call to Order

Chairman Nixon called the meeting to order and led the pledge. Commissioner Smith then offered the invocation.

Approval of Agenda

Commissioner Kehayes moved to approve the agenda. Chairman Nixon asked for all in favor, the motion passed unanimously (6-0).

Public Comment

Chairman Nixon opened the floor to public comment.

Bill Dunn of 204 Powhatan Trail asked the Board to consider the treatment of Hydrilla during budget planning.

Consent Agenda

Chairman Nixon then provided the consent agenda.

a. Approval of Minutes

Attached are the minutes of the March 5, 2014 meeting for the Board's review and approval.

b. Budget Amendments

BA1314-044

Account Code	Description	Old	+ or (-)	New
25-3990-990-00	Fund Balance Appropriation	(180,200.00)	90,200.00	(90,000.00)
25-4140-695-00	Contracted Services - Pearson	223,500.00	(90,200.00)	133,300.00
Fund 25				
	Balanced:	\$ 43,300.00	\$ -	\$ 43,300.00
Justification:				
<i>Adjusting Fund Balance Appropriations to reflect balance due on Pearson's Contract in fiscal year 2015</i>				

BA1314-045

Account Code	Description	Old	+ or (-)	New
12-3531-230-10	Special Links	(270.56)	(1,045.00)	(1,315.56)
12-5380-539-29	Special Links	270.56	1,045.00	1,315.56
12-3531-230-01	Social Service Administration	(1,429,100.00)	(1,000.00)	(1,430,100.00)
12-5380-539-21	Low Income Energy Asst. Program	116,599.00	1,000.00	117,599.00
Social Services				
	Balanced:	\$ (1,312,501.00)	\$ -	\$ (1,312,501.00)
Justification:				
<i>Social Services - additional appropriation for a new program & LIEAP</i>				

MBA-1314-007

Management Budget Amendment, attached as FYI only.

c. Tax Refund Release Report

Wilkins, F.	\$113.35	Overpayment
Hope, W.	\$164.99	Vehicle Sold
Kirkman, L.	\$300.00	Overpayment
Henderson, D.	\$175.55	Overpayment
Copeland, J.	\$596.27	Equipment Sold
Austin, E.	\$130.08	Overpayment

Chairman Nixon noted a correction to the March minutes to state NCDOT rather than the Town of Edenton contributed funding.

Finance Officer Willie Carawan provided the Board with an explanation of the budget amendments.

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

Presentation from SAGA

Bob Howsare and Fed Vollat representing SAGA Construction, provided the Board with a PowerPoint presentation on their plan for renovation of the former County Office Building/Hotel Hinton. The project proposes 60 hotel rooms and a restaurant. A copy of the PowerPoint is in the meeting file labeled March 3, 2014.

Planning Items

Riversound Phase II

Planner Landin Holland provided the Board with information on a petition to rezone Riversound Phase II. He stated that the requested action is to formally decide whether Chowan County should move forward with a County sponsored rezoning action regarding the land associated with Riversound Phase II development. He stated that the Board received a petition from County residents asking them to consider this action. He stated the Commissioners referred the petition to the Chowan County Planning Board for a recommendation. He noted that additionally a preliminary plat has been received for Phase II from a group by the name of Yeopim Partners which being reviewed by the Planning Board. He stated that the Planning Board reviewed the preliminary plat and a number of concerns were being reviewed by the Planning Board for that project. He stated that if the Board took action on this request, this would result in rezoning Phase II from R-25 residential (a zoning district with a minimum lot size of 25,000 square feet) to A-1 (an agricultural district with a minimum lot size of 40,000 square feet).

County Attorney John Morrison asked if Mr. Holland was of the opinion that the owner had any vested right with the project.

Mr. Holland stated that in his opinion, Phase II is not vested because the preliminary plat has not been approved.

Mr. Morrison asked what the adverse impacts would be of a rezoning.

Mr. Holland stated that the preliminary plat would be reduced by approximately 75%, a reduction in the tax base.

Mr. Morrison asked Mr. Holland what his opinion would benefit from the rezoning.

Mr. Holland stated that by reducing the number of lots, it would reduce the environmental impact.

Mr. Morrison asked about impact on the schools and other government services.

Mr. Holland stated that the project has not yet been reviewed by the Technical Review Committee.

Mr. Holland stated that when Phase I of the development was approved it was noted that there was a second side of the development. He stated that he felt that the developer could argue that they were vested in the zoning. He noted the preliminary plat for Phase II has various size lots some are 1-2 acres in size and some are 5-10 acres in size. He stated the developer has indicated that Phase II will have septic tanks on every lot and would not require sewer from Phase I.

Mr. Morrison asked if the developer for the Phase II was at the meeting.

Mr. Holland stated no and explained that at the time of a rezoning, the law would require notification of the owners and adjoining property owners before a rezoning is considered.

Chairman Nixon opened the floor to public comment on the agenda item.

Tom Creedle of Osprey Drive stated his opposition to the current zoning of the property. He stated the area around the property is rural and low density. He stated his concerns that Phase I was permitted all of the lots were sold and 5 ½ years after being permitted and sold the development is not complete and no building permits have been issued. He stated his concern with the names of the representatives of Phase I being the same persons for Phase II. He stated that Phase I was found to be inconsistent with the Land Use Plan and still approved. He requested that the Board of Commissioners use extreme caution in reviewing the preliminary plat. He encouraged the Board to protect the surrounding neighborhood.

Jackie Erwin of Mulberry Lane stated that she was speaking on behalf of Guy Shaneybrook who purchased two lots in Phase I. She stated his concern with the financial burden that has fallen on the lot owners of Phase I with the development being incomplete and noted that 20+ lots have been foreclosed on. She stated that Mr. Shaneybrook stated that Phase I has not been good for the County.

Virginia Wood of the Yeopim Community stated that she is an adjoining property owner. She stated that most of the land in Phase II is swamp land. She encouraged the Board to protect future land owners in their decision making.

Dossey Pruden of the Yeopim Community stated his concerns over the environmental impact of Phase I and II on the wetlands. He stated he would request that the County request an environmental impact study to be done before considering anything in Phase II.

Les Kersey, 3065 Connors Drive provided the Board with a copy of a written statement in opposition to development of Phase II. A copy of the statement is in the meeting file labeled March 17, 2014. He stated that he felt the developer has no vested rights in the site. He noted that Phase I has sewer pipes that were designed to connect to Phase II without any approved permits. He stated that that Board made a mistake in 2008 to approve Phase I and encouraged the Board to not make the same mistake again now with Phase II. He requested that the Board of Commissioners approve the rezoning petition request.

Susan Inglis requested that the Board consider the rezoning petition and approve it.

Commissioner Winborne asked for clarification on vested rights.

Mr. Morrison stated that vested rights follow the land. He stated that based on the information he has been provided that the owner has no vested right in the land.

The Board discussed project specifics like impact on schools, emergency services and roads.

Mr. Holland cautioned the Board that all of these matters would be addressed initially at Technical Review.

Mr. Morrison stated that the matter could be considered under common law and that would be decided by a court. He stated that the developer would have a difficult time proving common law vested rights unless there were facts that he was unaware of.

Commissioner Kehayes stated his concern over the comments regarding environmental impact and stated that if the Board receives the preliminary plat application, these questions would need to be addressed in his opinion.

Mr. Morrison stated that after reviewing a publication by the School of Government regarding Land Use Law, that a developer could not have any vested right in zoning. He stated that the Board of Commissioners has the authority to adopt a zoning ordinance and map and make changes to the zoning.

The Board discussed the ordinance requirements for rezoning requests and how often they can be heard.

Ms. Stallings noted the ordinance allows the Board to change the zoning map four times per year but there are other circumstances which allow it to be done more frequently. She stated she would provide this information to the County Attorney.

Commissioner Winborne stated that after hearing all of the comments, he would move to request that County Planning staff move forward with a rezoning case that will result in the rezoning of all land associated with Riversound Phase II from R-25 (residential) to A-1 (agricultural).

Chairman Nixon stated that he serves on the County's Economic Development Board and their mission is to build the population and encourage growth. He stated that many developed areas in Chowan County were at one time swampland such as the Town of Edenton. He stated that the Planning Board's recommendation is unanimous. He stated he would support Commissioner Winborne's motion but he was not sure how he would vote at the time the Board of Commissioners will hear the rezoning application.

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

Update on Code Enforcement

Mr. Holland stated that he is running an ad to accept bids to clean up properties. He stated that the Planning Board is working on new ordinance language regarding abandoned or dilapidated manufactured homes. He noted that he is also planning a spring/summer cleanup effort.

Amendment – Hospital Lease

Chairman Nixon stated that the Hospital has contacted the County about amending the lease.

Mr. Morrison explained that the Hospital Directors Council is an advisory Board. He stated that he was advised by the Hospital's legal counsel that a requirement of the original 30 year lease states that three physicians serve on the Council. He stated that over the past several years Vidant has acquired many local practices which reduces the number of local physicians available to serve on the Council. He stated that Vidant does not want affiliate physicians because of a fear of conflict of interest. He stated Vidant has requested that the language in the lease be amended to state that the language stating three of the eight members of the Council be physicians to up to three of the eight members.

Commissioner Smith recommended that the language be no less than one, no more than three.

Commissioner Kehayes stated his concern with little physician representation on the advisory council.

The Board discussed the current advisory Board membership.

Commissioner Mitchener stated he serves on the Directors Council and would like the opportunity to discuss this with Mr. Sackrison.

Commissioner Smith moved to invite Mr. Sackrison to come to the next Board meeting to discuss the membership required in the lease and the current Board membership. Chairman Nixon asked for all in favor, the motion passed unanimously (6-0).

Audit Contract

Willie Mack Carawan requested that the Board consider renewal of the contract with Martin Starnes and Associates for FY 2014.

Commissioner Smith moved to approve the contract for Audits with Martin Starnes and Associates for the 2014 fiscal year. Chairman Nixon asked for all in favor, the motion passed unanimously (6-0)

Chairman Nixon called for a five minute recess.

Chairman Nixon called the meeting back to order.

Cellphone Stipend

Mr. Howard stated that he was asking the Board to consider a request to provide the County Manager with a monthly stipend of ½ of previous expense for the County Manager's cellphone which was \$77. He stated that he would request a stipend of \$35.

Commissioner Smith moved to approve the request to provide Mr. Kevin Howard with a monthly stipend of \$35 for Mr. Howard to maintain his personal cellphone rather than to have two phones. Chairman Nixon asked for all in favor, the motion passed unanimously (6-0)

Chairman Nixon recommended that the manager look into doing this county wide.

Planning/Enterprise Committee Report

Commissioner Winborne, updated the Board on the discussions from the Planning/Enterprise Committee meeting held Thursday, March 13, 2014. He noted that the committee discussed capital improvement updates and current ongoing projects. He noted the manager is assessing the space at the Public Safety Center for future office locations after the move of the Edenton Police Department. He noted the committee discussed long range consolidation of the Agricultural Building. He stated the committee will begin development of a 5 year plan.

Manager's Report

County Manager Kevin Howard updated the Board on meetings he has attended in the past two weeks.

Timely and Important Matters

Chairman Nixon and Commissioner Winborne reminded the Board that with the revaluations going out, that all questions about the valuations should not be discussed with the taxpayer as they may come back later as an appeal.

Commissioner Mitchener provided the Board with a report from the Destination Downtown Board.

Chairman Nixon stated that he, the Vice Chairman and the Manager met with the ABC Board to discuss the audit and future appropriations from the ABC Board. He stated that the ABC Board has indicated that they may not be able to meet the \$30,000 obligation for this year.

Chairman Nixon noted the upcoming NCACC District Meeting. He stated that anyone interested should sign up with the Clerk.

Closed Session

Commissioner Smith moved that the Board go into closed session, in accordance with NCGS 143-318 (11) (a) (5), contract negotiations. Chairman Nixon asked for all in favor, the motion passed unanimously (6-0).

The minutes of the closed session are sealed.

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

Being no further business, Commissioner Smith moved that the meeting be adjourned. Chairman Nixon asked for all in favor, the motion passed unanimously (6-0).

D. Keith Nixon, Chairman

Susanne Stallings, Clerk