

Regular Meeting
Monday April 1, 2013
6:00 pm
Chowan County Public Safety Center
305 West Freemason Street

Minutes

The Chowan County Board of Commissioners held their regular meeting on Monday, April 1, 2013 at 6:00 pm at the Chowan County Public Safety Center. Present: Chairman Keith Nixon, Commissioners Jeff Smith, Ellis Lawrence, Greg Bonner, Emmett Winborne, Alex Kehayes and John Mitchener.

Staff present: County Manager Zee Lamb and Board Clerk Susanne Stallings.

Chairman Nixon called the meeting to order, he then led the pledge.

Commissioner Kehayes provided the invocation.

Chairman Nixon requested that the agenda item #9 be amended to include a recess of the regular meeting before the Board of Equalization and Review.

Commissioner Smith moved to approve the agenda with amendments. Chairman Nixon asked for all in favor, the motion passed (7-0).

Public Comment

There was none.

Consent Agenda

a. Tax Release and Collector's Report

Black, S.	\$124.66	SITUS Washington Co.
Hare, K.	\$164.93	Vehicle Sold
Owens, S.	\$140.61	SITUS Georgia

b. Approval of Minutes

Attached are the minutes of the March 4, 2013 and March 14, 2013 meetings for Board consideration.

Chairman Nixon noted a needed correction to page 7 of the March 4, 2013 minutes.

Commissioner Kehayes moved to approve items a and b with corrections. Chairman Nixon asked for all in favor, the motion passed (7-0).

Planning/Enterprise Committee Items

Commissioner Winborne stated that the Committee met a couple of weeks ago and is still discussing other items

a. Surplus Vacated house at Valhalla Tower

Commissioner Winborne stated that the County has taken an intuitive to clean up properties and this property is owned by Chowan County. He stated the committee has recommended that the dilapidated house located on this property be demolished. He stated the committee met with the Edenton Fire Chief, and the Town Fire Department and Center Hill Crossroads Fire Department have agreed to have a controlled training burn on the property. He stated the cost for the burn is minimal. He stated the County is required to obtain a permit after asbestos testing which will cost approximately \$200. He stated the committee recommends the house be declared surplus and grant permission for the fire departments to conduct a controlled training burn of the house. He stated the costs for the permits could be absorbed within the fire fund.

Chairman Nixon stated the motion recommendation from the committee is to declare the house surplus and allow the fire department to use a maximum of \$500 from the fire fund to pay for the asbestos testing permits.

Commissioner Kehayes asked what will happen with the property after it is burned.

Chairman Nixon stated the Maintenance and Water Departments will bury the remaining bricks. He then asked for all in favor of the motion, the motion passed unanimously (7-0).

Commissioner Mitchener stated that he would like the burn to be done at a time when other events are not going on such as the pilgrimage or Cycle NC.

B. Surplus Gliden Road House (242 Gliden Road)

Commissioner Winborne stated the committee has recommended the house be declared surplus and advertised for sale for upset bids. He stated the tax value of the house is \$56,000. He stated typically properties are advertised at tax value.

The Board discussed any outbuildings on the property. Mr. Lamb recommended that the buildings and land be declared surplus and sold together.

The Board recommended adding to the motion from the committee that “or best offer” be added to the language of the advertisement regarding sale price.

Chairman Nixon asked for all in favor of the committee recommendation and additional wording for all offers will be considered. The motion passed unanimously (7-0)

Commissioner Winborne stated that the committee is continuing to work on the railroad behind the Public Safety Center and has recommended that the manager include \$30,000 in the FY 2013-14 budget for repairs to the Shepard Building located in front of the Public Safety Center.

Worksession referrals

Resolution Supporting Continued Funding for Museum of the Albemarle

Chairman Nixon stated that at the last worksession the Board requested additional information on the request for a resolution in support of the funding for the Museum of the Albemarle. He stated the information was attached for Board review. He stated the Board clerk could draft a resolution from Chowan County asking the legislature to secure funding for the Museum. He stated he met with Secretary Klutz the week prior and she indicated the museum and the sites in Edenton are going to be protected in the coming budget year. He stated he also discussed opening properties in town for visitors to view that are not on walking tours as well as the historic 1767 Courthouse.

Mr. Lamb recommended that the clerk draft a resolution and email it to the Board. If there are not objections to the resolution it will be forwarded to the legislators. He noted she will follow the wording in the Perquimans resolution.

Commissioner Mitchener moved to approve the drafting of a resolution and follow the procedure discussed by the Manager. Chairman Nixon asked for all in favor, the motion passed (7-0).

The Board discussed a local resolution and determined that it was not necessary at this time.

RESOLUTION SUPPORTING CONTINUED FUNDING FOR MUSEUM OF THE ALBEMARLE

WHEREAS, Museum of the Albemarle serves a 13 county area that spans Northeastern North Carolina and is one of six divisional museums of the North Carolina Museum of History; and

WHEREAS, Museum of the Albemarle opened its first museum on May 29, 1967 in the old Highway Patrol building south of Elizabeth City; and

WHEREAS, by 1987 the museum's collection was overflowing and there was a critical need for a larger facility that would allow for the proper housing and display of the region's precious collections and a decision was made to seek a larger facility; and

WHEREAS, property was donated for a site and following a fundraising campaign and delays due to state budget shortfalls, a new 50,000 square foot museum was constructed using local and state resources; and

WHEREAS, the new Museum of the Albemarle opened on April 8, 2006 and is a wonderful facility that includes large public gathering areas, meeting and conference rooms, a 200 seat auditorium, 11,000 square feet of lobby and galleries, and 3,500 square feet of collection storage; and

WHEREAS, the museum is a regional resource center that houses historically significant regional artifacts and state-of-the-art displays that provide rare opportunities for inquiry and learning; and

WHEREAS, some of the current exhibits which are quite significant for our area include "Our Story: Life in the Albemarle", "Out of the Blue: Coast Guard Aviation", "Under Both Flags: Civil War in the Albemarle"; and

WHEREAS, over the past 45 years, Museum of the Albemarle has shown hundreds of exhibits, collected, displayed and cared for thousands of regional artifacts, conducted hundreds of educational programs, given general tours to thousands of regional school children, and educated, entertained and showed off the amazing history of the Albemarle Area; and

WHEREAS, Museum of the Albemarle has become a vital resource for our area;

NOW, THEREFORE, BE IT RESOLVED that the Chowan County Board of Commissioners supports funding for continued operation of Museum of the Albemarle and requests the Governor and General Assembly to include full funding in the state's 2013-14 budget for Museum of the Albemarle.

Adopted this the 4th day of March, 2013, in Chowan County, North Carolina.

Schedule a Public Hearing

Clerk Susanne Stallings shared that the Planning Board will be forwarding a recommendation to the Board of Commissioners for a public hearing to be held May 6, 2013. She stated that the public hearing would be for a proposed text amendment to the Chowan County Zoning Ordinance regarding rear set-back requirements in the A-1 zoning district.

The Board indicated they would prefer all Planning Board minutes with the May 6, 2013 agenda packet.

Commissioner Smith moved to schedule a public hearing on the matter for May 6, 2013 at 6:00pm. Chairman Nixon asked for all in favor, the motion passed (7-0).

Tax Annual Report

Tax Administrator Kep Kepley provided the annual report on the activities of the Tax Office. A copy of the PowerPoint is in the meeting file April 1, 2013.

External Board /Committee Report

Commissioner Mitchener reported on the activities of the Destination Downtown Board.

Commissioner Lawrence reported on the activities of the COA Board.

Chairman Nixon reported on the activities of the Health Department Board.

Timely and Important Matters

Planning/Enterprise Committee additional matters

Commissioner Winborne mentioned the Planning and Enterprise Committee also heard from the maintenance director on sewage problems at DSS and maintenance repairs. He added that the maintenance director reported a savings on the electrical repairs at Swain auditorium than what was previously quoted.

PNC Contract

Chairman Nixon requested that the Board members review the draft contract in their packets for PNC. He stated that he would sign the contract on the next day if there were no questions or concerns.

300th Activities

Chairman Nixon stated that with proposed activities in May including the North Carolina Supreme Court being held at the 1767 Courthouse, he would recommend that Maintenance look for monies to spruce up the exterior of the Jail and Jailers House.

Arbor Day request from the town

Mr. Lamb provided the Board with a copy of an email request from the Town of Edenton to plant a tree at the Courthouse on Broad Street. He stated all expenses will be absorbed by the Town. There were no objections from the Board.

Chairman Nixon called a recess of the regular meeting for the Board to convene after 5 minutes at the Board of Equalization and Review.

**Chowan County Board of Equalization and Review
Monday April 1, 2013
6:00 pm
Chowan County Public Safety Center
305 West Freemason Street**

Minutes

The Chowan County Board of Commissioners met as the Board of Equalization and Review on Monday, April 1, 2013 at 6:00 pm at the Chowan County Public Safety Center. Present: Chairman Keith Nixon, Commissioners Jeff Smith, Ellis Lawrence, Greg Bonner, Emmett Winborne, Alex Kehayes and John Mitchener.

Staff present: County Manager Zee Lamb and Board Clerk Susanne Stallings.

Chairman Nixon called the meeting to order

Board Clerk Susanne Stallings administered the oath to the Board members.

Presentation of Appeals

Chairman Nixon noted the order of business for the appeals:

- Citizens having appropriately and timely appealed their property valuations to the Tax Department will be heard.
- Tax Administrator will respond.

Tax Administrator Kep Kepley, Clerk to the Board of Equalization and Review, called on the appellants.

Albemarle Boats – 140 Midway Drive Edenton, NC

Burch Perry spoke on behalf of Albemarle Boats. He stated that their company is appealing a decision from a tax audit performed in 2012. (All evidence presented to the Board of Equalization and Review is in the meeting file labeled April 1, 2013). He stated the appeal is based on a claim in the 2012 audit that assets were underreported. He stated that he purchased the property in 2008. He stated that in 2009 that was the first filing for taxes by his office. He stated the previous owner Brunswick Corporation filed the previous listings. He stated that his company submitted listings on January 30, 2009. He stated that he was contacted by the Tax Office later asking that they re-submit the listing. He stated that on April 30, 2009 his office submitted a lower asset listing using information printed out from the Tax Office of the listing from the previous owner. He stated assets were originally reported at \$3,198,749 and in April they reported \$1,699,594. He stated the audit reflects assets were under reported at \$2,059,604. He stated the penalty is \$6,055.23 and the tax bill is \$15,138.09. He requested that ½ of the tax bill be waived and the full penalty be waived. He stated he was of the opinion that the erroneous report was filed because of the information provided by the Tax Office.

Chairman Nixon opened the floor to questions from the Board.

Commissioner Kehayes asked why the audit was performed.

Mr. Lamb stated that through June 30, 2013 the County has participated in a business audit program. He stated the reviews are not on any schedule and can go back 4 years. He stated that contingency fee audits will no longer be allowed. He stated that all future revenues from business audits will be 100% of the County's. He stated before the new law not allowing contingency fee audits, many counties and municipalities have participated in the program.

Scott McLaughlin also representing Albemarle Boats stated that he does not contest the taxes but feels the County owns some responsibility. He stated that he would prefer to pay \$7,500 and move on.

Commissioner Winborne asked Mr. McLaughlin if he agreed that items were not listed.

Mr. Perry stated yes he did not dispute the audit.

Commissioner Winborne asked if the additional equipment was included in the 2010 tax listing.

Mr. McLaughlin stated that was correct.

Commissioner Kehayes asked if there was correspondence from the Tax Office regarding the previous owners listing.

Mr. McLaughlin stated he only had the printout provided from the Tax Office.

Commissioner Smith asked if the difference is personal or real property.

Mr. McLaughlin stated this is personal property only.

Chairman Nixon then called on the Tax Office to present their comments.

Tax Administrator Kep Kepley stated that the information provided by Mr. McLaughlin and Mr. Perry was correct. A listing was submitted in 2009 for \$3.4 million. He stated the staff was reviewing the listing and noticed a discrepancy in the listing from what was listed by the previous owner. He stated she contacted Mr. Perry and submitted a screen shot from the tax software of the Brunswick listing. He stated that as Mr. Perry stated, another listing was resubmitted for significantly less. He stated that in 2010 his staff sent a fixed asset listing and was able to pull the true amounts for the equipment. He stated the later audit showed a difference of \$1.5 million in the assessed value.

Tax Office Assistant Rena Skinner agreed with Mr. Kepley and restated the facts presented by Mr. Kepley.

Addresses of Staff:

Kep Kepley 110 Water St Edenton

Rena Skinner 822 Drummonds Pt Rd Edenton

Ms. Skinner stated she notice the discrepancy between the Brunswick listing and the listing for Albemarle Boats. She stated she contacted the company and later received a call back requiring additional information. She stated that was when she forwarded a screen shot of the Brunswick listing.

Commissioner Lawrence asked Mr. Kepley if he believes his office played a role in the mix up of the listing.

Mr. Kepley stated he did not believe that his office is responsible. He stated he felt his staff was trying to assist the taxpayer. He stated had Ms. Skinner not contacted the owner in 2010 to correct the values, the amounts owed could be much greater. He added that he did not feel that Albemarle Boats intentionally under listed their assets. He noted that the County has delayed interest penalties.

Mr. Lamb noted the \$6,000 in penalty was a 30% fee because the taxes were 3 years late.

Chairman Nixon stated that if there is a finding in a Board of Equalization and Review case, the law is specific regarding penalties.

Mr. Lamb stated that this is an appeal of a discovery and the law is unique to these cases. He stated the general statutes allow the County to compromise the claim for taxes on the discovery and the County is authorized to bill less.

Chairman Nixon asked Mr. Lamb to share with the Board the laws regarding personal liability of the Board members.

Mr. Lamb stated there is personal liability when there is an appeal of a value and the Board lowers the value incorrectly showing favoritism to a tax payer. He noted that in a discovery the laws are different and do allow the Board to reduce the bill or compromise.

Commissioner Smith stated that the law is clear on how the Board must judge appeals.

Mr. Lamb stated that the Department Of Revenue handbook for Boards of Equalization and Review states all taxpayers must be treated according to law. He stated the law does not allow compromise on value appeals, only discoveries.

Commissioner Smith asked if the taxpayer could work out a payment plan.

Mr. Lamb stated yes the County does allow payment plans. He stated this discovery has not been added to the books yet.

Mr. Kepley stated that this discovery is being treated as a 2013 discovery. He stated whatever payment plan or decision is made today, will not be due until the 2014 tax bill with interest beginning January 2014.

The Board discussed a deadline for making a decision.

Commissioner Bonner moved to discuss a compromise, he then rescinded his motion.

Commissioner Mitchener stated he felt the Board should compromise on the penalty and by all accounts the property was there by their records. He stated this was a logical place to start.

Commissioner Smith moved to keep the tax bill at \$15,130.09 and forgive the penalty of \$6,055.23.

The Board discussed a due date.

Mr. Lamb stated that a date does not have to be included in the motion; the bill will be due by January 5, 2014 with interest penalties beginning after that date.

Chairman Nixon asked for all in favor, the motion passed (7-0).

Darrell Bigner Lots 19 and 20 Nixon's Beach

The property owner was not present to present his appeal.

Mr. Kepley stated he has received an appraisal done in 2011. He stated he has provided a copy of the deed and a photo of the property. He stated the appraisal values the property at \$450,000 and the County has it valued at \$493,794.

Commissioner Smith asked Mr. Kepley if there is any deviation in the property appraisal and what the County has.

Mr. Kepley stated he did not measure the property, this was done when a shed was picked up when the storage building was added the property value increased \$400.

Commissioner Smith asked if there were any structural changes.

Mr. Kepley said no.

Chairman Nixon asked if there were any mathematical errors brought to his attention by the appellant.

Mr. Kepley stated no.

Commissioner Winborne moved to reject the appeal.

Chairman Nixon asked for all in favor, the motion passed (7-0).

Dean Griffin, 134 Water Lilly Loop Edenton, NC

The property owner was not present.

Mr. Kopley stated that Mr. Griffin provided an appeal application. He stated that the property sold for an amount within \$5,000 of what it was assessed for. He stated that the property owner submitted NADA guides for values. He stated that the mobile home on a foundation is considered real estate and is assessed as a permanent residence. He stated the NADA value is less than the assessed value.

Commissioner Kehayes stated the application questions the age and depreciation of the main dwelling but also discusses the storage sheds and bulkhead footage. He asked if there were any mathematical errors.

Mr. Lamb asked if the bulkhead was verified on the measurements.

Mr. Kopley stated he did not measure the bulkhead, he added the burden is on the taxpayer to show the error in mathematics.

Mr. Lamb stated the only evidence presented is a statement in the appellant's application. There are no measurements listed in the appeal application.

Commissioner Mitchener moved to deny the appeal. Chairman Nixon asked for all in favor, the motion passed (7-0)

Larry Axt 220 Nautical Way Edenton, NC 27932

The appellant was not present.

Mr. Kopley stated the appeal states the lot is not buildable. He noted additionally the appellant questions the current value of the land as compared to the purchase price.

Commissioner Winborne asked if the inability to get a building permit is a cause for a tax release.

Mr. Lamb stated no and added the property was not developed when it was purchased. He added the taxpayer has the right to appeal a decision of the Board of Commissioners to the State Property Tax Commission.

Commissioner Mitchener moved to deny the request. Chairman Nixon asked for all in favor, the motion passed (7-0).

Dr David Wright 514 West Queen Street Edenton, NC

The appellant was not present.

Mr. Kepley stated that the appellant filed an appeal based on the fact that the property has conservation easements which restrict the use of the property. He stated the property has no value other than it being scenic.

Mr. Kepley stated he has adjusted the value based on the conservation easements and the rate was set. He noted that Mr. Wright purchased the property as a bank foreclosure. He stated that the property was previously listed as farmland.

Being no further discussion, Commissioner Smith moved to deny the request. Chairman Nixon asked for all in favor, the motion passed (7-0).

Perry & Creighton, LLC 1389 N Broad Street Edenton

The Following appellants presented on behalf of the appeal:

Charlie Creighton 115 West Queen St

Bud Perry 4033 Virginia Road Edenton, NC

Mr. Creighton stated that the property is listed at a value of \$2,662,615. He stated that he purchased the building for \$137,500. He stated at the time of the sale the only other bidder was a church. He stated that if the church purchased the building, there would be no tax revenue received by the County. He stated the building was designed for manufacturing but has no equipment. He stated the building can be used for dry storage, he added that he felt it was outrageous to keep the property listed as a manufacturing operation. He stated that the property has had a new roof put on at a cost of \$420,900.

Commissioner Kehayes asked what the law would allow the Board to do regarding adjustment.

Mr. Lamb stated that if there is a substantial material change in the condition of the building such as a wall or roof caving in that would be considered a substantial change. He stated the level of deterioration may or may not be cause for adjustment. He stated the law allows January 1, 2006 to be the date of the appraisal of the building condition. He noted the property will be reappraised for the 2014 tax cycle. He stated a determination of the condition and value will be made and presented in 2014. He stated that the Board is bound to consider the 2006 value and it is up to the appellant to make their case regarding any deterioration.

Chairman Nixon asked if an out parcel of the original parcel has been taken off since it was sold.

Mr. Creighton said yes the 5 acres was taken off and given a value of \$30,000.

Chairman Nixon asked if any walls were removed.

Mr. Creighton said no, some have been added to satisfy the current tenant. He stated that because of the roof leak, he has put in much work to satisfy the current tenant.

Commissioner Smith stated that the appellant is stating they are making repairs to damage that is significant. He stated this does not imply that the change of the structure is significant.

Mr. Kepley stated that if the property was removed then the value would change. He stated that because the property sold at bank auction the sale cannot be considered a true sale. He noted that a new roof would add value to the property. He stated that the county does not access normal repairs to a property during the tax cycle.

Commissioner Smith asked if there was equipment in the appraisal.

Mr. Kepley stated that is listed separately under personal property.

Commissioner Kehayes stated that the property does not allow the county to depreciate value. He stated that the purchase price cannot be considered.

Mr. Kepley stated that was correct unless there was substantial deterioration to the structure such as walls caving in but not normal wear and tear.

Commissioner Bonner asked if the use is considered in valuation.

Mr. Kepley stated no, the highest and best use is what is considered.

Commissioner Winborne asked about the amount of insurance listed on the appeal application for the building.

Mr. Creighton stated that was what the insurance company recommended \$1.5 million.

Mr. Perry stated that if the insurance company agreed to insure the building only at \$1 million that should be considered.

Commissioner Bonner asked what the request for the reduction was.

Mr. Creighton stated that the request is to value the property at \$138,000. He stated if the Board wished to review the roof repair invoices he could provide that.

Chairman Nixon stated his concern regarding consistency. He stated that he was concerned with making sure the Board follows the laws regarding adjusting valuations.

Commissioner Kehayes indicated his desire to remain consistent for future appeals.

Commissioner Winborne stated that the Board has always been consistent and cannot show favoritism. He stated that while the owners made a great buy on the building, the County has to remain consistent. He stated that unless there are mathematical errors, he could not see how the Board could legally adjust the value.

Commissioner Smith agreed with Commissioner Winborne. He stated that not all decisions of the Board are easy, however he felt the Board should be consistent.

Commissioner Mitchener echoed his desire to be consistent with all decisions.

Commissioner Lawrence concurred with the Board.

Commissioner Smith moved to deny the request.

Commissioner Bonner stated he felt the Board should view the property before making a decision. He stated he was not in favor of the motion.

Chairman Nixon stated that while decisions like this were not easy he felt the Board should follow what the law allows.

Being no further discussion, Chairman Nixon asked for all in favor, the motion passed (6-1 Bonner).

Worth Rinehart, 115 Pembroke Circle

The appellant was not present.

Mr. Kepley stated that the house was incomplete at the time is purchased. He stated the purchase price of the home and the valuation differs by \$79,000. He stated that the appellant is questioning the valuation based on the purchase price. He stated the neighboring lot is large but has limited access to the water. He noted this property has full water access with a pier and boat lift.

Commissioner Lawrence moved to deny the request. Chairman Nixon asked for all in favor, the motion passed (7-0).

Steven Bembridge 209 Queen Ann Drive

The appellant was not present.

Mr. Kepley stated that this property was going to be appealed however the appellant never filed the appeal.

Donald Deboer 111 Heritage Point Drive

The appellant was not present.

Mr. Kepley stated that the appellant is appealing that the property is vacant land. He added that the only information provided is the appeal application.

Commissioner Mitchener moved to deny the appeal. Chairman Nixon asked for all in favor, the motion passed (7-0).

Rhonda Jordan

Board Clerk Susanne Stallings noted there was a name on the list of appellants.

Mr. Kepley stated she withdrew her appeal application.

Being no further business Commissioner Mitchener moved to adjourn the Board of Equalization and Review. Chairman Nixon asked for all in favor, the motion passed (7-0).

Closed Session

Commissioner Smith moved to go into closed session in accordance with NCGS 143-318.11 (a) (5&6). Chairman Nixon asked for all in favor, the motion passed (7-0).

The minutes of the closed session are sealed.

Commissioner Mitchener moved to close the closed session. Chairman Nixon asked for all in favor, the motion passed unanimously. (7-0)

Adjourn

Being no further business, Commissioner Mitchener moved to adjourn the meeting. Chairman Nixon asked for all in favor, the motion passed (7-0)

D. Keith Nixon, Chairman

Susanne Stallings, Clerk