

Chowan County Board of Equalization and Review
Meeting
Monday September 15, 2014
5:30pm
Chowan County Public Safety Center
305 West Freemason Street

AGENDA

The Chowan County Board of Commissioners met as the Board of Equalization and Review at 6:00pm on Monday, June 16, 2014.

Present Chairman Keith Nixon, Commissioners Jeff Smith, Alex Kehayes, Emmett Winborne, Greg Bonner, Ellis Lawrence (came in during the Andronowitz appeal) and John Mitchener.

Staff present Hosea Wilson Tax Administrator.

Chairman Keith Nixon called to meeting the Board of Equalization and Review at 5:30 pm.

The following minutes were submitted by Board of E&R Clerk, Hosea Wilson.

Chowan County Board of Equalization and Review
Minutes

The meeting was called to order by Chairman Nixon at 5:30 PM. The first appeal was made by Mr. Ron Andronowitz the owner of the Refuge at Drummonds Point, a 14 lot waterfront subdivision with two common areas in Yeopim Township. Mr. Andronowitz had provided his opinion as to the value of these parcels prior to the meeting in an email with attachments for the board to review. The packet is incorporated in the minutes of the meeting. Mr. Andronowitz was available to answer any questions from the board. Mr. Hosea Wilson, clerk to the board and Tax Administrator for Chowan County, then provided the board as to his opinion of the value of the properties. It was the opinion of the Tax Department and the revaluation company, Pearson Appraisal Service that these properties were over-assessed based on their condition on January 1, 2014. The main reason for the over-assessment being the lack of infrastructure in the subdivision and the cost to bring it to the development. The Tax Department had provided the board with its opinion of value for these properties prior to the meeting and the packet is incorporated in the minutes of the meeting. Board member, Mr. Jeff Smith asked Mr. Robert Pearson, the President of Pearson Appraisal Service, how the initial value was arrived at for the properties in the subdivision. Mr. Pearson stated that an error had been made by staff and that it was his opinion after inspection that these properties were over-assessed. Mr. Pearson apologized for the error and claimed that if it had been brought to staff in the form of an informal appeal, it would have been corrected. After more discussion Commissioner Smith made a motion that the board accepts the recommended values for the properties made by the tax office. The motion passed 6 to 1 with Commissioner Winborne voting against. Incorporated in the minutes are the initial 2014 assessed values for the subdivision and the final 2014 values after the reduction was made.

The next appeal before the board was made by Jacqueline Sears for parcel number 6971-20-92-2247. The subject property is a waterfront lot in the Arrowhead Beach subdivision, 1815 Arapahoe Trail. The taxpayer had previously submitted an appraisal to the board at the June 16, 2014 meeting. The appraisal stated the market value of the subject property was \$72,000 on May 13, 2014. It states that the subject property has approximately 40% of wetlands. At the prior meeting the board requested a copy of the full appraisal which the taxpayer submitted. Upon further inspection of the property the Tax Department concurred with the appraisal as to the condition of the property on January 1, 2014. Upon further review of market data and a reduction based on the presence of wetlands, the recommendation to the board from the assessor was to reduce the assessed value of the property to the appraised value of \$72,000. A motion was made by Commissioner Bonner to accept the recommendation and the motion passed 7 to 0. At that point Mr. Wilson informed the Board that there were no pending appeals to the board for the 2014 tax year and that the board could adjourn as their job duties were completed.

Regular Meeting
Monday, September 15, 2014
Chowan County Public Safety Center
305 West Freemason Street

Minutes

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

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

Regular Meeting

Chairman Nixon called the regular meeting to order and led the pledge of allegiance.

Commissioner Bonner then offered the invocation.

Approval of Agenda

Commissioner Kehayes moved to approve the agenda as submitted. Chairman Nixon asked for all in favor, the motion passed unanimously (7-0).

Public Comment

Chairman Nixon opened the floor to public comment in accordance with NCGS 153A-52.1.

There was none.

Consent Agenda

Chairman Nixon then presented the consent agenda.

a. **Minutes**

The minutes of the August 28, 2014 and September 2, 2014 meetings for the Board's review and consideration.

b. **Tax Report**

The Board will review and accept the Tax Collections report through August 31, 2014

c. **Finance Report**

Attached to the Board packet as FYI are the FY 13/14 year end totals and a management budget amendment 1415-002.

BA1415-002

Account Code	Description	Old	+ or (-)	New
12-3531-230-01	Social Service Admin	(1,414,414.00)	(16,514.00)	(1,430,928.00)
12-5380-539-20	Crisis Intervention	58,868.00	16,514.00	75,382.00
Social Services				
	Balanced:	(1,355,546.00)	-	(1,355,546.00)
Justification:				
<i>Budgeting additional revenues received for DSS</i>				

BA1415-003

Account Code	Description	Old	+ or (-)	New
11-3990-990-00	Fund Balance	(475,247.64)	(100,000.00)	(575,247.64)
11-9800-980-33	Transfer to Capital Outlay Reserve	-	100,000.00	100,000.00
33-3980-980-11	Transfer from General Fund	-	(100,000.00)	(100,000.00)
33-9930-995-00	Designated for Future Appropriation	20,000.00	100,000.00	120,000.00
	Balanced:	(455,247.64)	-	(455,247.64)
Justification:				
<i>Upon motion and with all member voting in favor (9/2/14), the Board agreed to appropriate \$ 100,000.00 from the General Fund to the Capital Outlay Reserve for future designation</i>				

MBA1415-002

Account Code	Description	Old	+ or (-)	New
11-4381-441-00	* Contracted Services - Spay/Neuter	-	7,851.00	7,851.00
11-4381-600-00	* Donations - Expenses	-	19,140.00	19,140.00
11-3990-990-11	Fund Balance - Animal Shelter	-	(26,991.00)	(26,991.00)
Animal Shelter				
11-4950-600-00	* SHIIP Grant	-	166.00	166.00
11-4952-600-00	* Hospital Foundation Grant	-	72.00	72.00
11-4953-440-00	* Ag Program Fees	-	4,062.00	4,062.00
11-4953-441-00	* 4-H Council Program	-	545.00	545.00
11-4953-445-00	* 4-H United Way	-	484.00	484.00
11-4953-448-00	* 4-H Fees/Discretionary	-	7,010.00	7,010.00
11-3990-990-06	Fund Balance - Cooperative Extension	-	(12,339.00)	(12,339.00)
Cooperative Extension				
11-6130-299-01	* Donations - Dept Supplies	-	1,242.00	1,242.00
11-6132-453-00	* Recreation Special Events	-	12,652.00	12,652.00
11-3990-990-08	Fund Balance - Recreation	-	(13,894.00)	(13,894.00)
Recreation				
11-4180-298-00	* Dept Supplies - Auto/Preser	-	975.00	975.00
11-4180-440-00	* Contracted Services - Auto/Preser	-	10,318.00	10,318.00
11-4180-511-00	* Capital Outlay - Auto/Preser	-	11,251.00	11,251.00
11-3990-990-01	Fund Balance - Register of Deeds	-	(22,544.00)	(22,544.00)
Register of Deeds				
11-4268-299-01	* Activities - Dept. Supplies	-	233.00	233.00
11-4268-312-00	* Trips - Senior Citizens	-	3,500.00	3,500.00
11-4268-351-01	* Donations - Bldg Improv	-	633.00	633.00
11-4268-352-02	* Healthways	-	4,539.00	4,539.00
11-4268-603-00	* Hospital Foundation Grant	-	2.00	2.00
11-4268-604-00	* Fundraiser	-	5,124.00	5,124.00
11-4268-904-01	* Donations - Home Delivered Meals	-	14,218.00	14,218.00
11-3990-990-02	Fund Balance - Senior Center	-	(28,249.00)	(28,249.00)
Senior Center				

11-4310-298-00	* Project Lifesavor	-	833.00	833.00	
11-4316-440-00	* Executions	-	5.00	5.00	
11-4317-440-00	* Donations - Expenses	-	9,882.00	9,882.00	
11-4317-441-00	* State Special Expense	-	870.00	870.00	
11-4317-442-00	* Federal Special Funds	-	31,476.00	31,476.00	
11-4317-443-00	* KIDS & COPS	-	5,094.00	5,094.00	
11-4317-444-00	* Diving Expenses	-	4,533.00	4,533.00	
11-3990-990-03	Fund Balance - Sheriff's	-	(52,693.00)	(52,693.00)	
Sheriff's Office *** Project Lifesavor NOT keyed, item was keyed in Original Budget					
11-4730-691-00	Div. of Water Res. Weed Erad.	-	673.00	673.00	
11-4730-692-00	Voluntary Agriculture District	-	688.00	688.00	
11-3990-990-05	Fund Balance - Soil & Water	-	(1,361.00)	(1,361.00)	
Soil & Water					
51-8150-826-00	Music & Water Festival	-	4,844.00	4,844.00	
51-8150-830-00	Civil War Grant	-	250.00	250.00	
51-3990-990-00	Fund Balance - TDA	-	(5,094.00)	(5,094.00)	
TDA *** NOT keyed within MBA# 1415-002, items were keyed in Original Budget and BA# 1415-001					
60-4370-499-00	* Donations - Rescue Squad	-	13,578.00	13,578.00	
60-3990-990-01	Fund Balance - EMS	-	(13,578.00)	(13,578.00)	
EMS					
		Balanced:	\$ -	\$ -	\$ -
Justification:					
<i>Bring forward FY14 Departmental Discretionary balances</i>					

Mr. Carawan provided the Board with information regarding the year end totals for FY 2013-14 showing what departments required additional monies and those departments that returned monies to fund balance. He noted the auditor estimates that revenues exceeded expenditures in FY 2013-14 around \$735,000.

Mr. Carawan noted that the audit will be finalized around November or December.

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

Tax Request

Mr. Wilson stated that the Board is asked to consider a request filed late by Jenny Underwood for the Disabled Veterans Property Tax Exclusion. He stated that Ms. Underwood is a widow who recently moved to Chowan County. He stated she was of the assumption that the Disabled Veterans exemption would transfer from Perquimans County. He stated that he felt this was an honest mistake. He noted that typically the application period for the exemption is over June 1st.

He noted that he would have approved the request if it were made prior to June 1st but because it was late, it now requires Board of Commissioner approval.

Commissioner Smith asked if this was similar to the retiree exemption.

Mr. Wilson stated yes.

Commissioner Lawrence moved to approve the request for the Disabled Veterans Tax Exemption for Ms. Jenny Underwood. Chairman Nixon asked for all in favor, the motion passed unanimously (7-0).

Planning Items- Public Hearings

Text Amendment – Public Hearing

Commissioner Mitchener moved to go into public hearing to hear proposed text amendment to establish the use of Department Variety or General Merchandise as a special use within the A-1 zoning district. Chairman Nixon asked for all in favor, the motion passed unanimously (7-0).

Planner Landin Holland provided the Board with information on a request for a text amendment to the Zoning Ordinance. He stated that the amendment was recommended by staff to establish the use of Department Variety or General Merchandise as a Special Use, requiring a Special Use Permit (SUP) within the A-1 zoning district. He noted that special use permits are approved by the Planning Board and do not require Board of Commissioner review. He noted the Commissioners could consider listing the amendment as a Conditional Use which would require a Conditional Use Permit (CUP) with review of the Planning Board and the Board of Commissioners. He noted that he has been contacted by both Family Dollar and Dollar General. He stated that the developer has indicated they are looking at land near the elementary schools on Highway 32. He stated that there are areas of the A1 zoning district that will support commercial development.

Chairman Nixon opened the floor to public comment.

There was none.

The Board discussed the different review and approval process for a Special Use Permit and a Conditional Use Permit. The Board discussed what use was defined in the ordinance.

Mr. Holland stated that commercial use is defined, but not Department Variety or General Merchandise.

Commissioner Smith asked if hobby businesses are allowed in the A-1 zoning district.

Mr. Holland stated that the Board raised this concern some time ago. He stated he would like to address that use with the Planning Board and develop a recommendation.

County Attorney, John Morrison discussed the review of a CUP and SUP. He noted that both types of review are legal, evidence based review and not a political decision (based on popularity of a project). He stated these types of review are quasi-judicial. He noted that zoning however is a political decision.

Commissioner Mitchener asked if there were other uses that could be defined as general merchandise or variety.

Mr. Holland stated that Family Dollar and Dollar General are the best two examples.

Commissioner Winborne stated his excitement over the proposed project.

Commissioner Kehayas asked if traffic flow is considered when reviewing a project.

Mr. Holland stated yes, DOT does have to review the project during the approval process.

Commissioner Bonner noted the Board was only to consider the text amendment and not the project. He clarified that a SUP would allow projects of this nature to be approved only by the Planning Board.

Mr. Holland stated that was correct.

Chairman Nixon stated his concern with the definition of variety store. He stated that it was not specific to the size of the project. He stated he felt a Walmart could be considered variety. He stated that the impact of a large project in the agricultural district could raise safety concerns.

Mr. Morrison recommended that the Board consider a discussion on doing away with SUP and only review applications as a CUP.

Commissioner Smith noted that some applications are allowed to have only the Planner review and approve them.

Chairman Nixon stated his greatest concern was the process for approval of an application and not the project itself.

Commissioner Smith moved to close the public hearing. Chairman Nixon asked for all in favor, the motion passed unanimously (7-0).

The Board discussed postponing the approval of the text amendment.

Mr. Holland noted that the application was to be considered the next evening by the Planning Board as a SUP. He noted that if the text amendment was not approved by the Commissioners, the application would be pulled from Planning Board consideration.

Mr. Morrison recommended that the Planner develop a definition for variety store.

Commissioner Bonner moved to approve the text amendment as recommended by staff (Special Use Permit approval by Planning Board).

Commissioner Smith asked if the ordinance could be amended in the future.

Mr. Holland stated that the application would proceed and the ordinance could be amended in the future.

Commissioner Winborne stated his concern with postponing a decision regarding the application. He stated he felt his constituents would be happy about the possibility of this type of commercial use in that area of the county.

Mr. Howard noted that the Planning Board can add conditions to a SUP and the Board of Commissioners can add conditions of approval to a CUP.

Commissioner Kehayes stated he felt the ultimate decision regarding this type of project should be the Board of Commissioners to make.

Chairman Nixon stated he would not vote in favor of the motion to approve the text amendment. He stated that he was pro-business but he felt the amendment would compromise safety. He stated that only four Planning Board members attended the meeting where the text amendment was reviewed. He stated he felt the Commissioners should have been made aware of the application sooner. He stated that changing county-wide laws is a big responsibility.

The Board discussed the approval process for approving a text amendment to the zoning ordinance.

Mr. Morrison and the Clerk explained that the law requires a unanimous vote of the Board for the first reading of a text amendment.

Mr. Holland and the Board Clerk explained how the text amendment was advertised as a SUP approval process with no other recommendations, therefore another public hearing would have to be held to amend the proposed text amendment language.

Commissioner Bonner stated he would rescind his motion to approve the text amendment and requested that the Planner and Planning Board work swiftly to bring back the matter to the full Board as soon as possible.

Commissioner Smith moved to authorize the Planning Board and Planner to review the proposed text amendment and make recommendations of other options for the text amendment language and bring it later for the Board of Commissioners consideration.

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

Chairman Nixon called for a five (5) minute recess. After 5 minutes, Chairman Nixon called the meeting back to order.

Development Agreement- Public Hearing

County Attorney John Morrison stated that the Board will consider a proposed Development Agreement between Yeopim Partners and Chowan County for property known as Riversound Phase II or "The Farms at Riversound". The Board reviewed the draft development agreement.

Planner Landin Holland stated that he felt that his concerns were addressed in the development agreement. He stated his concern was over the subdivision of the lots after they are set at 10 acres. He stated that was addressed in the development agreement. He stated he has some concerns over the roads.

Chairman Nixon called a recess to ensure that the public copies and the Board copies of the draft development agreement were the most current draft. The Clerk determined that the copies made available to the public and the Board were the most current draft. Chairman Nixon called the meeting back to order.

Mr. Morrison clarified that that the development agreement states the lots cannot be further subdivided. He noted the roads are not required to be paved under the zoning or subdivision ordinance. He stated the roads would be a superior gravel and the Homeowners association would be responsible for maintaining the roads.

Mr. Howard stated there was a concern with the road only being 18' wide.

Hugh Franklin, attorney representing the developer stated that this plan was to develop the property into 57 lots. He stated the development was proposed by staff and agreed upon by the developers. He stated one road goes into the subdivision that is 18' wide with two 6' shoulders. He stated that the developer did not object to a 20' width. He noted the property also included a marina.

Mr. Howard stated that the roads should meet the fire code standards that have a cul-de-sac or a "T" where the road dead ends.

Commissioner Mitchener asked if the development could be bonded.

Mr. Holland stated the property cannot be bonded.

Mr. Morrison noted the development is a contract between the County and the developer.

Mr. Morrison stated the developer has one year to complete the improvements listed in the agreement. He stated that the developer could voluntarily post a bond but the County cannot require it.

Mr. Holland stated that the infrastructure at the site is limited to gravel roads, septic, water and some wells.

Commissioner Winborne asked if the County has any other development agreements on file.

Mr. Morrison stated that he is not aware of any others.

Commissioner Mitchener asked if the courts would uphold the agreement.

Mr. Morrison stated yes.

Commissioner Mitchener moved to go into public hearing. Chairman Nixon asked for all in favor, the motion passed unanimously (7-0).

Chairman Nixon requested that public comments be limited to three minutes.

Roger Arrowood, of Mulberry Lane stated that the Board's duty is to protect the citizens. He asked why the County would not put a bond into the agreement.

Mr. Morrison stated that a bond requirement is not an option for the County.

Mr. Arrowood stated his concern regarding the size of the proposed marina.

Mr. Holland stated that a marina is a use by right and that requires independent review.

Virginia Wood of Greenhill Road stated her property adjoins the proposed development. She stated that the costs to maintain the gravel road on which she resides is expensive for the property owners. She stated that would be a great expense to the property owners in the development. She asked that the Board consider the costs to the landowners, construction in swamplands (stating she felt some properties could not be built upon) and she felt that the marina is too large. She referenced individual letters she provided to the commissioners. A copy of two of the letters is in the meeting file labeled September 15, 2014.

John Hale of Osprey Drive stated his concern over the size of the marina (130 boat slips).

Mr. Morrison noted that the developer is required to obtain other permits from CAMA.

Mr. Holland stated that a marina as an accessory to a residential development is permitted but would review CAMA review and permits.

Les Kersey of Connors Drive stated this concern with the proposed marina. He stated that area marinas such as Albemarle Plantation have not sold more than 40% of their boat slips and that is only located a few miles upriver from the proposed development.

Commissioner Kehayes noted there are two types of marinas, one is a "commercial boatyard" and the other is accessory to a residential use. He stated that the permit issued by CAMA in 2009

for the more dense subdivision originally planned for the location was approved specific to the number of proposed lots. He noted the current development is proposed to have fewer lots than the original CAMA permit.

Mr. Holland stated that if the project development agreement is approved, he will require the most current permit from CAMA and that review process would have to be fully completed before the County would issue a zoning permit for the construction of a marina. He stated it would be the responsibility of his office to complete the due diligence at that time.

Mr. Franklin stated that he felt the development agreement addresses all concerns regarding infrastructure to be in place prior to the sale of lots. He stated that the CAMA permit originally issued to the previous owner was passed to the current owner. He stated that he expects changes to be made to the CAMA permit when the developer seeks authorization to construct a marina.

Commissioner Kehayes asked what improvements remain to be met.

Mr. Holland stated the road improvements have begun. He stated that the water system in Phase I is not completed however some of the lots in Phase II will be on wells.

Mr. Franklin stated that the power lines have not been installed.

Mr. Morrison stated the Board could make the stipulation that all electrical utilities must be in place before the lots could be sold.

Being no further public comment, Commissioner Smith moved to close the public hearing. Chairman Nixon asked for all in favor, the motion passed unanimously (7-0).

Commissioner Winborne asked why the Board would debate a development agreement if the ordinance does not require one.

Mr. Morrison stated that the Board would have to determine if an agreement is advantageous.

Commissioner Mitchener stated that with the controversy over Phase I he felt an agreement for Phase II is prudent.

Mr. Morrison stated that another public hearing is not required to hear the agreement again. He noted that he can work with the developer's attorney to address any additional concerns in the agreement and bring it back to the Board at a later meeting.

Commissioner Smith asked what would happen if there was a natural disaster that ruined the roads before the development infrastructure was completed.

Mr. Franklin stated the developer would have to go back in and finish the roads.

Commissioner Kehayes asked about the ownership of the marina.

Mr. Franklin stated that the boat slips would be deeded over to the individual owners.

Commissioner Mitchener moved to have the County Manager, Attorney and Planner work with the developer's attorney to develop a final development agreement to include the following:

1. Clarification on road width (to include the 20' language)
2. Electrical Utilities must be in place prior to the sale of any lots
3. Clarification that no lots can be sold until ALL utilities are in place
4. Minimum lot acreage is 10 acres to (never change in size).

Mr. Morrison noted he would also provide the Board with a copy of the original CAMA marina permit for phase II.

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

Cooperative Extension Changes Update

Interim Extension Director Katy Shook provided the Board with an update from Extension Staff on the Strategic Plan for North Carolina Cooperative Extension Service. She noted that the core areas identified are Agriculture, Food and 4-H Youth Development. She provided information on the proposed base staffing structure to be provided by Extension. She noted that currently Chowan County funds 35% of the salaries of 6 people. She stated the formula will change to fund 50% of the salaries for one Ag Agent, Support Staff, 4H Agent and FCS Agent.

Commissioner Smith requested that Ms. Shook email the Board the link to the webinar he attended recently regarding the proposed changes.

Chairman Nixon thanked Ms. Shook for the information. He stated this is an item that would need to be included in a future retreat.

External Board/Committee Report

Chairman Nixon asked the Board members to provide a written report on the activities of the external boards to which they have been appointed via email to the Clerk for distribution to the Board members.

Manager's Report

County Manager Kevin Howard stated that installation of the gym floors at the Northern Chowan Community Center will be completed in late October.

Timely and Important Matters

Chairman Nixon requested that the Board discuss legislative goals for 2014-15. Board members made the following recommendations.

- Funding for Hydrilla eradication
- Return lottery funding levels as set in State statute
- Develop more equitable road funding formula for Northeast North Carolina
- Remove ferry capital purchases from Division 1 road funding
- Priority for interstate designation from the section of US 64/US 17 connecting to Hampton Roads, VA and bring this section of roadway to interstate standards.

- Develop a partnership with State to reduce health insurance costs to counties.

Ms. Stallings noted that Norfolk Southern Railroad is reviewing the County's application to purchase property behind the public safety center.

Closed Session

Commissioner Smith moved that the Board go into closed session, in accordance with NCGS 143-318 (11) (a) (5, 6), contract negotiations and personnel. Chairman Nixon asked for all in favor, the motion passed unanimously (7-0).

The minutes of the closed session are sealed.

Commissioner Smith moved that the Board come out of closed session. Chairman Nixon asked for all in favor, the motion passed unanimously (7-0).

Adjourn

Being no further business, Commissioner Smith moved that the meeting be adjourned. Chairman Nixon asked for all in favor, the motion passed unanimously (7-0).

D. Keith Nixon, Chairman

Susanne Stallings, Clerk