

Regular Meeting  
Monday, September 8, 2015  
**Chowan County Public Safety Center**  
**305 West Freemason St.**  
**Edenton, NC**  
**6:00pm**

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

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

**Regular Meeting**

Chairman Smith called the meeting to order and led all in attendance in the pledge of allegiance. Commissioner Nixon then offered the invocation.

**Approval of Agenda**

Chairman Smith requested to amend the agenda to add three items 911 equipment purchase, Veterans Annual Report and announcement of 911 service. Commissioner Winborne moved to approve the agenda as amended. Chairman Smith asked for all in favor, the motion passed unanimously (6-0).

**Public Comment**

Chairman Smith opened the floor to public comment in accordance with NCGS 153A-52.1 he noted that public comment would be limited to 3 minutes per speaker.

Elliott Engstrom 111 Crab Orchard Dr. Raleigh NC stated he was an attorney for the Center for Law and Freedom (CIVITAS). He stated he was asked to help by citizens concerned with wind energy. He stated he wants the entire process to be transparent. He stated that as an attorney he would attack the procedure for adoption of the ordinance and look for gray areas. He stated that the Board of Commissioners asked the Planning Board to take the subcommittee recommendation and put it into text format. He stated that the ordinance was not put into the subcommittee recommended format and asked where that authority came from. He stated that was both good and bad for the County because it was a gray area. He thanked the Board for the opportunity to speak.

(Commissioner Lawrence came in while Mr. Engstrom was speaking).

Mark DeHart 112 Horniblow Pt. Road stated his concern was with a lack of transparency. He stated that in March a committee was tasked to form a recommendation. He stated that in July the Board was given a petition with over 600 signatures. He stated that in August the Board was told by the attorney that the recommendation from the subcommittee was not in ordinance format. He stated that new planning Board members re-wrote the ordinance that was recommended. He stated his concern with Chowan County being one of the first wind farm sites in the area.

Carolyn Browning 3413 Rocky Hock Rd. Edenton stated she felt that she was not informed during the process. She asked why Ms. Bryant (the County Planner) changed the subcommittee format and text.

Amy Ziolkowski stated she did not wish to use the time she was signed up for.

Jeff Ziolkowski 118 Lloyd Overton Lane stated he agreed with the previous speakers.

Margaret Simonds 121 Pembroke Circle asked the Board what would happen if something goes wrong.

Brain Ferracio 128 Rockfish St. Edenton NC asked what the best interest of Chowan County was. He asked how the wind turbines would be taxed and how much monies would be gained. He asked what would happen if more examples of what happened with Food Lion in Edenton moving.

Hardy Gilliam 211 Lakeside stated that wind turbines bring a promise of monies. He stated that people do things that are out of character for money. He stated that people will forget their neighbors while salesmen create a divide in the community. He discussed a representative of Apex being aggressive with the audience at a previous meeting. He stated his concern that a County Planner would push a wind ordinance that is bogus and watered down.

Ginny Gilliam 211 Lakeside read an email from a Dr. Hudgins stating the area proposed is not a great area and that he would like to see environmental assessments from Apex. She read that he would like information on the bird studies done on the area also. She read that he stated the studies are all performed by Apex and could downplay the environmental impacts.

Tom Creedle 137 Osprey Dr stated the current recommendation from the Planning Board is without adequate foundation. He stated that the instructions may have been changed from what was discussed in the meeting. He stated that 600 people want to know who authorized the changes. He stated the Board should reject the Planning Board's news recommendation, reinstruct the Planning Board to prepare a draft ordinance and to ask the Planner if she comprehends the instructions.

Stuart Bethune 200 Osprey Drive stated he supports sustainable energy He stated he was concerned with how the process has been handled. He asked where the environmental assessment was and why the protections were being loosened. He stated that anything over 35DB is problematic. He stated he supported Mr. Creedle's comments and asked that the Commissioners go with the April recommendation. He stated that the Board of Commissioners intent was to not have it revised.

Lin Bond 667 Virginia Road discussed the lack of employment opportunities in Edenton and Chowan County He stated that wind turbines will destroy property values and close area businesses.

Amelia Bond 667 Virginia Road stated the petition has 800 signatures and people expect to see the regulations passed She asked that the subcommittee recommendations be adopted.

There was no further public comment.

Later in the meeting under Timely and Important Matters, Board members addressed some of the public comments/remarks.



**Tobacco and Smoke Free Parks and Playgrounds Proclamation  
By, Chowan County**

WHEREAS, the community leaders of Chowan County realize the importance of protecting the health, safety and welfare of its citizens and visitors, including youth participants, by prohibiting the use of all tobacco and smoking products in our playgrounds and ball fields; and,

WHEREAS, family friendly venues such as ball parks and playgrounds should be free of toxins emitted from secondhand cigarette smoke; and,

WHEREAS, adults and teens engaging in tobacco use in the presence of children have a negative effect on lifestyle choices made by youth; and,

WHEREAS, butt depots or littered cigarettes are also blights on the natural beauty of our ball parks and playgrounds, which require additional clean up expenses and creates a threat to our ecosystems; and,

NOW THEREFORE BE IT RESOLVED, that Chowan County affirms its commitment to provide healthy ball parks and playground environments (clean air, positive role models and less litter) for its citizens, visitors and youth participants by prohibiting the use of tobacco and smoking products in County operated ball parks and playgrounds with the use of appropriate education and notifications.

**Veterans Services Annual Report**

Veterans Services Officer Archie Aples provided the Board with his annual report. He stated that Chowan County is currently serving 1, 578 veterans. He provided other home visit and office visit statistics. He stated that \$7,093,000 has been distributed by the Federal Government in Chowan County.

**Purchase of 911 Equipment**

911 Director Cordell Palmer provided the Board with a request to replace the radio console. He stated that he requested quotes. He stated the monies for the purchase come from the 911 fund. He stated the request is to approve the spending of monies within the budget.

Commissioner Nixon asked how much would be expended.

Mr. Palmer stated the amount available is \$410,000 and the quotes came in below that amount.

Mr. Howard noted that this company works under the state contract cost.

Mr. Carawan stated that he does not have the current year report however \$257,246 remains unexpended in the fund balance. He stated in order to be awarded the monies the County has to spend down the fund balance.

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

### **9-11 Event on Friday**

Commissioner Winborne invited both the Board and the public in attendance to a 9-11 Memorial Event hosted annually by Leon Evans on Rocky Hock Road. He stated the program begins at 11:00am on September 11, 2015. He stated his is an annual day of remembrance.

Chairman Smith called for a 10 minute recess. After 10 minutes Chairman Smith called the meeting back to order.

### **Update from Schools**

Edenton-Chowan Schools Superintendent Rob Jackson provided the Board with an update on the capital projects that were included in the FY 2015-16 capital project funds. A copy of the PowerPoint that details the savings realized from the completed projects is in the meeting file labeled September 8, 2015.

### **Public Hearing – No Wake Zone Arrowhead Beach**

Chairman Smith noted that the Board has scheduled a public hearing to consider a proposal from the Arrowhead Beach Property Owners Association. He stated that the Board will consider adoption of a resolution requesting that the Wildlife Resources Commission take action on the proposal.

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

Jim Brock 1101 of Arrowhead Trail stated that there are people in the audience in support of the request. He asked the Board if he could ask the members in attendance to stand if they support the request. 13 members of the public stood in support of the resolution.

Chairman Smith called for any further public comment, there was none.

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

Commissioner Winborne moved to approve a resolution of approval and the packet of materials to be forwarded to NC Wildlife.

Chairman Smith noted that NC Wildlife will investigate the request and have the final approvals.

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

## **RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF CHOWAN COUNTY**

**WHEREAS**, under the authority of North Carolina General Statutes Section 75A-15(a) any subdivision of the State of North Carolina may at any time, after public notice, make formal application to the North Carolina Wildlife Resources Commission for special rules and regulations with reference to the safe and reasonable operation of vessels on any water within its territorial limits; and

**WHEREAS**, Chowan County has given public notice of its intentions to make formal application to the North Carolina Wildlife Resources Commission for special rules and regulations with

reference to the safe and reasonable operation of vessels within its territorial limits of Chowan County and for the implementation of the Uniform Waterway Marker System in all the waters of the county; and

**BE IT RESOLVED**, that in accordance with N.C.G.S. 75A-15(a), the Board of Commissioners of Chowan County requests the North Carolina Wildlife Resources Commission to promulgate special rules and regulations with reference to safe and reasonable operation of vessels on the waters of an unnamed canal located in the Arrowhead Beach Subdivision located in said county, the pertinent substance of which proposed rules is as follows:

- A no wake zone designation for an unnamed canal in the Arrowhead Beach Subdivision.

**BE IT FURTHER RESOLVED**, the said Board of Commissioners requests the said Commission promulgate regulations fully implementing the Uniform Waterway Marker System in all of the waters of the said county.

**ADOPTED THIS THE 8<sup>th</sup> DAY OF SEPTEMBER. 2015**

### **Text Amendment**

Chairman Smith stated that the Board of Commissioners is asked to consider a proposal from the County Planning Board for a text amendment to Article II, Section 2.02 of the Zoning Ordinance. He stated that a staff report and proposed amendment is attached that defines Planning Board Officer elections, Sub Committees of the Planning Board, Special Meetings of the Planning Board, Public Hearings, Chairman votes as a tie breaker, conflicts of interest and electronic meeting notice. If the Board of Commissioners wishes to pursue an amendment, it will be in order to schedule a public hearing for a later meeting.

County Planner Elizabeth Bryant stated that the County Attorney and she have identified a referenced statute in the ordinance that has been repealed. She stated that the text would require further amendment.

Commissioner Nixon stated he felt the Board should schedule a public hearing.

Ms. Bryant noted the ordinance allows only certain times of the year to have a text amendment or the Board must make a vote to waive that policy.

Commissioner Winborne moved to schedule a public hearing for the December 2015 meeting to allow for revisions to the text by staff and the Planning Board.

Chairman Smith noted the September meeting would be a long meeting.

Commissioner Nixon stated he felt that staff and the Planning Board should make the revisions and correct the statute that is cited and bring it back in December.

Ms. Stallings clarified the motion from Commissioner Winborne. "Commissioner Winborne moved to schedule a public hearing for the December 2015 meeting to allow for revisions to the text by staff and the Planning Board."

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

## Appointments

Chairman Smith stated that the Board will consider the following Board/Commission Appointment, Chowan County Planning Board, Area B. He stated the Board would handle the appointments as they did at the previous meeting. Board members will nominate candidates, those receiving the least votes will be eliminated. The first candidate to receive 4 votes would be appointed. He noted the Commissioners should not vote twice in the affirmative in each round.

He then opened the floor for nominations.

Commissioner Mitchener nominated Robert Kirby.

Commissioner Winborne nominated Wayne Parrish.

Commissioner Nixon nominated Jack Perry.

Being no further nominations Chairman Smith closed the floor. He remind the Board members of the procedure for voting. He stated the candidates will be voted on in the order they were nominated.

Chairman Smith asked for all in favor of Robert Kirby, the vote failed (3-4 Winborne, Smith, Nixon and Bonner).

Chairman Smith asked for all in favor of Wayne Parrish, the vote failed (3-4 Nixon, Kehayes, Mitchener and Lawrence).

Chairman Smith asked for all in favor of Jack Perry, the vote failed (1-2 Winborne, Smith, Kehayes, Mitchener, Lawrence and Bonner).

Chairman Smith stated that Jack Perry would be removed from consideration.

Commissioner Winborne stated his support of the nomination of Mr. Parrish stating his residency and community service.

Commissioner Mitchener stated his support of Mr. Kirby stating his educational background and work experience.

Commissioner Kehayes concurred with Commissioner Mitchener.

Being no further discussion,

Chairman Smith asked for all in favor of Robert Kirby, the vote failed (3-4 Winborne, Smith, Nixon and Bonner).

Chairman Smith asked for all in favor of Wayne Parrish, the vote passed (4-3 Kehayes, Mitchener and Lawrence).

### **External Board/Committee Report**

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

Commissioner Winborne reported on the Animal Shelter Advisory Board.

Commissioner Nixon reported on the Health Department Board.

Commissioner Mitchener reported on the Destination Downtown Edenton Board.

Commissioner Kehayes reported on the Mental Health Board.

Chairman Smith reported on the Managers/Chairman Meeting.

### **Manager's Report**

County Manager Kevin Howard updated the Board on the following:

- Pembroke Creek work to be completed this month.
- Hotel Hinton oil tank issues still linger. Hopefully after the tests being performed there will be no further issues that need to be addressed.

### **Timely and Important Matters**

#### **Planning/Enterprise**

Commissioner Winborne noted the Planning/Enterprise Committee will be meeting on September 22, 2015.

#### **Responses to Public Comments**

Commissioner Winborne stated that he would like to make some remarks regarding comments made about staff during the public comment period. He stated he was embarrassed over how Ms. Bryant (the County Planner) was treated. He stated people need to read the minutes of August 3, 2015 to see the exact discussion regarding Ms. Bryant's instructions from the Board. He read the following excerpt from the minutes of August 3rd:

*Commissioner Bonner stated he would recommend that the Board instruct staff to bring back something they can vote on. Commissioner Bonner moved to instruct the County Planner to bring a text amendment back to the Planning Board for their review, based on the proposed recommendations from the Planning Board Sub Committee, in a text format to be in compliance with the Chowan County Zoning Ordinances and procedures.*

*Commissioner Nixon asked if staff will look at the subcommittee recommendations and re-negotiate with the PB members*

*Ms. Bryant noted she would look at the committee language and make changes and ensure compliance with the ordinance.*

*Commissioner Nixon asked if she would alter or review what was recommended.*

*Ms. Bryant stated that the text amendment will include the Planning Board Committee's intent however it would need to be in compliance with the ordinance.*

*Commissioner Nixon stated he would like for the Planner to look for any holes in the committee's proposal and bring that back to both Boards for their review.*

*Ms. Bryant noted that the Planning Board may change what was proposed by the committee, and she stated she may present the Commissioners with both the committee recommendation, her draft amendment (her staff report) and any changes from the Planning Board.*

*Chairman Smith asked why the ordinance would have to go back to the Planning Board.*

*Ms. Bryant explained that the proposed language is currently not in ordinance format. She noted the zoning ordinance lays out a procedure for formally adopting a proposed text amendment.*

*Ms. Stallings and Ms. Bryant discussed the necessary time frame for review and approval. It was decided that the second meeting in September (September 21, 2015) is the likely date for the proposed text amendment to come back to the Commissioners for consideration.*

*(4-2 Winborne and Mitchener) (Smith recused).*

Commissioner Nixon stated that he wished the public had not left during the meeting so that they could hear the Board's responses and comments. He stated he was concerned with a Planning Board member frequently abstaining from voting. He stated that caused him to have concern with that appointment. He noted the Planning Board members are not paid enough for the scrutiny that they deal with but stated that Commissioners have a duty to vote and he felt Planning Board members should vote also. He stated that he had concerns with this Board member using the word "tainted" repeatedly in his reasoning for not voting. He commended Ms. Bryant for her work noting that she follows the law in her work. He stated the situation is touchy and he appreciated seeing the new planning Board members working together at the last meeting. He stated he could see movement of a Board working together to come to a conclusion.

Commissioner Winborne stated his concern that another member of the Planning Board stormed out during the past two meetings without voting.

Commissioner Mitchener stated that behavior did not reflect favorably on how to handle the public's business and was a juvenile response.

Chairman Smith stated the Board of Commissioners does not always agree on a matter and have to vote based on their conscience. He stated that regardless the Board of Commissioners are able to remain friends even when their opinions differ.

**Closed Session**

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

The minutes of the closed session are sealed.

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

**Adjourn**

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

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Jeffery Smith, Chairman

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Susanne Stallings, Clerk