

**Regular Meeting**  
**Monday, June 17, 2019**  
**6:00pm**  
**Chowan County Public Safety Center**  
**305 West Freemason St.**  
**Edenton, NC**

This meeting was recorded. A copy of the recording is in the meeting file labeled June 17, 2019.

Present Chair Patti Kersey, Commissioners Greg Bonner, Ron Cummings, Don Faircloth, Larry McLaughlin, Bob Kirby and Ellis Lawrence

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

**Regular Meeting**

Chair Kersey called the regular meeting to order and led all in the pledge of allegiance.

Commissioner Kirby then provided the invocation.

**Approval of Draft Agenda**

Commissioner McLaughlin moved to approve the agenda as presented. Chair Kersey asked for all in favor, the motion passed unanimously (7-0).

**Public Comment**

Chair Kersey opened the floor for public comment.

There was none.

**Consent Agenda**

a. **Minutes**

Minutes of May 17, 2019, May 20, 2019, May 24, 2019 and June 3, 2019 meetings

b. **Tax Refund/Release Report**

Occupancy Tax information submitted prior to deadline penalty released for the following accounts:

Boehling, P.	\$1,100
Phillips, W.	\$1,100
Fitzsimons, B.	\$1,100
Lassiter, C.	\$1,100
Cooney, G.	\$1,100
Jones, D.	\$1,100
Jarvis, J.	\$1,100
Gschwandtner, G.	\$1,100
Burch, E.	\$1,100

Commissioner Bonner moved to approve the consent agenda as presented. Chair Kersey asked for all in favor, the motion passed unanimously (7-0).

**Budget Amendments**

Mr. Howard presented the budget amendments:

**BA-1819-073**

Account Number	Account Description	Revenue (Inc+/Dec-)	Expense (Inc+/Dec-)
<b>Animal Shelter</b>			
11-4381-600-00	*Donations Expense		(6,500.00)
11-4381-445-00	Feasibility Study		6,500.00
	Balanced	-	-
<b>Justification:</b>			
	<p><i>To transfer an AWARE donation from Donations Expense to Feasibility Study. AWARE agreed to pay for a feasibility study for the Animal Shelter.</i></p>		

**BA-1819-074**

Account Number	Account Description	Revenue (Inc+/Dec-)	Expense (Inc+/Dec-)
<b>Register of Deeds</b>			
11-3418-415-00	*Preservation/Automation	691.93	
11-4180-298-00	*Dept Supplies - Auto/Pres		230.64
11-4180-440-00	*Contr Svcs - Automation/Pres		230.64
11-4180-511-00	*C/O - Auto / Pres		230.65
<b>Sheriff's Office</b>			
11-3431-232-00	*Sheriff Donations	50.00	
11-4317-440-00	*Donation - Expense		50.00
11-3431-233-00	*State Special Funds	71.73	
11-4317-441-00	*State Special Expense		71.73
11-3431-235-00	*Sheriff Executions	170.00	
11-4316-440-00	*Sheriff Executions		170.00
11-3431-243-00	*KIDS & COPS	4,089.97	
11-4317-443-00	*KIDS & COPS Expense		4,089.97
<b>Animal Shelter</b>			
11-3438-894-00	*Donations - Chowan	510.00	
11-3438-894-01	*Donations - Gates	65.00	
11-3438-894-02	*Donations - Perquimans	30.00	
11-3438-894-03	*Donations - Other	510.00	
11-4381-600-00	*Donation - Expense		1,115.00
11-3438-895-00	*Adoption - Chowan	240.00	
11-3438-895-02	*Adoption - Perquimans	190.00	
11-3438-895-03	*Adoption - Other	1,200.00	
11-4381-441-00	*Contr Svcs - Spay/Neuter		1,630.00
11-3438-897-00	*A.W.A.R.E. Reimbursement	2,729.00	
11-4381-601-00	*A.W.A.R.E. Reimbursement		2,729.00
<b>Cooperative Ext:</b>			
11-3495-370-00	*AG Program Fees Discretionary	2,694.20	
11-4953-440-00	*Ag Program Discretionary		2,694.20
11-3495-378-00	*4-H Fees Discretionary	3,443.00	
11-4953-448-00	*4-H Fees Discretionary		3,443.00
11-3495-379-00	*Livestock Program	26,813.00	
11-4953-449-00	*Livestock Program		26,813.00
11-3495-380-00	*ECA Discretionary	191.45	
11-4953-450-00	*ECA Discretionary		191.45
<b>Recreation</b>			
11-3612-487-00	*Recreation Donations	2,590.02	
11-6130-299-01	*Donations - Dept Supplies		2,590.02
<b>Senior Center</b>			
11-3616-533-00	*Reg Fees - Trips	8,485.00	
11-4268-312-00	*TRIPS - Senior Citizens		8,485.00
11-3616-533-01	*Registration Fees Activities	238.00	
11-4268-299-01	*Activities - Dept. Supplies		238.00
11-3616-535-03	*Healthways	1,200.00	
11-4268-352-02	*Healthways		1,200.00
	Balanced	56,202.30	56,202.30
<b>Total Discretionary Income Received FYE 2019</b>		<b>302,848.96</b>	
<b>Justification:</b>			
<i>To amend the 2019 budget to include Discretionary income received through May 2019.</i>			

**BA-1819-075**

Account Number	Account Description	Revenue (Inc+/Dec-)	Expense (Inc+/Dec-)
<b>TDA</b>			
51-3815-530-00	Co-Op Monies	1,595.30	
51-8150-261-01	Co-Op Office Supplies		1,595.30
51-3832-530-00	Co-Op Advertising	3,000.00	
51-8150-370-01	Co-Op Advertising		3,000.00
51-3839-894-00	*Music & Water Festival	2,020.00	
51-8150-826-00	*Music & Water Festival		2,020.00
	Balanced	6,615.30	6,615.30
<b>Justification:</b>			
<i>To amend the 2019 budget for TDA to include Co-Op and Discretionary income through May 2019</i>			

**BA-1819-076**

Account Number	Account Description	Revenue (Inc+/Dec-)	Expense (Inc+/Dec-)
<b>Solid Waste Fund</b>			
62-3471-530-00	Scrap Tire Grant Rev	4,697.75	
62-4710-694-00	Scrap Tire Grant Exp		4,697.75
	Balanced	4,697.75	4,697.75
<b>Justification:</b>			
<i>To amend the 2019 budget to include Solid Waste grants received through May 2019</i>			

Commissioner Kirby moved to approve the budget amendments as presented. Chair Kersey asked for all in favor, the motion passed unanimously (7-0).

**FY2018-19 Budget Clean Up**

Mr. Howard asked that the Board will authorize the Finance Officer and Manager to perform necessary FY 2018-19 budget clean up amendments and bring them back to the Board as FYI in August.

Commissioner Cummings moved to approve the request. Chair Kersey asked for all in favor, the motion passed unanimously (7-0).

## **Boys and Girls Club Renovation Public Hearing – To be rescheduled**

### **Public Hearing Reschedule**

Mr. Howard stated that the low bidder on the project withdrew the bid because it was not correct. He stated the bid has to be amended. He noted the Boys and Girls Club only wants to borrow \$1.65 million and is reviewing how to handle any overages with the bids. He stated that it is recommended that the Board reschedule the public hearing on this matter to the July 15, 2019 meeting. There was no objection.

### **Resolution Strengthening Critical Drainage and Water Quality Infrastructure**

Commissioner McLaughlin stated that at its May 7th board meeting the Albemarle RC&D Council adopted the attached resolution for strengthening critical drainage and water quality infrastructure in Northeast NC. The resolution seeks to bring attention to regional drainage and water quality issues, and to work in partnership with our state legislators to bring much needed funds to NE NC. The ARC&D Council is encouraging Boards of Commissioners, Soil and Water Conservation Districts, and other groups to adopt the resolution and send it to its state senators and representatives.

Commissioner Kirby stated his concerns over the lack of response from Little Washington regarding his questions and concerns over algal blooms in the Chowan River. He asked what they feel the reasons are for the bloom.

Mr. Howard stated the nutrients, high heat and drought all are contributing factors. He stated these are most likely coming down stream.

Chair Kersey stated that studying this is very expensive to study.

Commissioner McLaughlin moved to approve the resolution as presented. Chair Kersey asked for all in favor, the motion passed (6-1 Faircloth).

## **Resolution** **For**

### **Strengthening Critical Drainage and Water Quality Infrastructure**

WHEREAS, CHOWAN COUNTY, which recognizes that intense storm events on northeast North Carolina's flat landscape can lead to severe flooding and the subsequent degradation of water quality, AND that these problems are negatively impacting both urban and rural residents, businesses, and our regional economy, DESIRES to work with our legislators, local governments, businesses, Albemarle Resource Conservation and Development Council (ARC&D), Albemarle Commission (AC), Soil and Water Conservation Districts (SWCD), Department of Transportation, farmers, non-profit groups, universities, state and federal agencies and citizen scientists to strengthen critical drainage and water quality infrastructure in northeast North Carolina.

NOW, THEREFORE, BE IT RESOLVED THAT:

CHOWAN COUNTY requests the State of North Carolina to increase financial assistance to the ten counties in northeast North Carolina around the Albemarle and Pamlico Sounds for the following activities, which will help strengthen critical drainage and water quality infrastructure in northeast NC.

- 1) We recognize that creeks, rivers and canals are critical for draining stormwater off our flat landscape. However, many of these systems become clogged with woody debris during storm events, both minor and major. We request matching funds for local governments to annually clear debris from creeks, rivers and canals. This will help strengthen critical drainage infrastructure and lessen the damage that can occur during major storms such as Matthew and Florence.
- 2) We recognize that swamp forests are a critical component of drainage infrastructure as they help mitigate floodwaters and improve water quality. We request funds to help provide financial incentives to owners of swamp forests to conserve a minimum 100-foot buffer along creeks and rivers, which is essential for protecting both drainage and water quality.
- 3) We recognize that the return of algal blooms to our waters after an absence of 30 to 35 years is a threat to fisheries, recreation, property values, and human health, and thus to our regional economy. We request funds to help identify the causes of, and solutions to, the algal blooms, specifically to proactively monitor water quality in creeks and rivers—where NCDEQ does not have monitoring stations—in order to identify the specific sources of nutrients and sediment entering our waterways. This work would be performed in collaboration with local governments, ARC&D, AC, SWCD, universities, and citizen scientists.

#### **Planning Items- Public Hearing Text Amendments**

The Board will hold a public hearing to consider the following text amendments. The Board discussed the procedure and decided to hold separate public hearings for each text amendment.

#### **CC-TA-19-01**

Review and vote to amend the Chowan County Zoning Ordinance regarding the following:  
3.12J- Evidentiary Hearing Requirements and Procedures for Special Use and Conditional Use Permits to clarify the burden of proof is with the applicant in all cases at all times.

Commissioner Lawrence moved to go into public hearing. Chair Kersey asked for all in favor, the motion passed unanimously (7-0).

Commissioner McLaughlin discussed his desire to table an amendment. It was determined that TA 19-04 was the amendment he was most concerned with.

Planner Brandon Shoaf provided the Staff report:

#### **GENERAL INFORMATION**

**Requested Action:** Review and vote to amend the Chowan County Zoning Ordinance regarding the following: **3.12 J- Evidentiary Hearing Requirements and Procedures for Special Us and Conditional Use Permit Applications**, language in that section to clarify that the burden of proof is with the applicant in all cases, at all times.

### **ANALYSIS**

This text amendment is staff initiated with the intention of clarifying of who the burden of proof is with when the County receives planning and zoning applications that must go through any hearing process.

#### **Currently in the Ordinance:**

J. The burden of persuasion on the issue of whether the development, if completed as proposed, will comply with the requirements of this Ordinance remains at all times on the applicant. The burden of persuasion on the issue of whether the application should be turned down for any of the reasons set forth in subsection I. above rests on the party or parties urging that the requested permit should be denied.

#### **Proposed Language (replace):**

J. The burden of proof on the issue of whether the development, if completed as proposed, will comply with the requirements of this Ordinance remains at all times with the applicant.

### **RECOMMENDATION**

Staff recommends the change to make clear, at all times, the burden of proof is with the applicant. As the ordinance reads now, an argument could be made that the County shares that burden because the language is not clear. The County's Attorney agrees that this is a good amendment and will give the County good legal ground, should we need it.

Chair Kersey asked for public comment, there was none.

Commissioner Cummings moved to close the public hearing. Chair Kersey asked for all in favor, the motion passed unanimously (7-0).

Commissioner Lawrence moved that this amendment will be consistent with the 2018 Land Use Plan or any other plan officially adopted by the Board of Commissioners because it clarifies the intent of the County Zoning Ordinances.

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

Commissioner Faircloth moved to approve the text amendment as presented. Chair Kersey asked for all in favor, the motion passed unanimously (7-0).

### **CC-TA-19-02**

Review and vote on proposed text amendment to the Chowan County Zoning Ordinance regarding the following: 3.13B.4. Action on Special Use and Conditional Use Permit that now allowed by General Statutes, will provide options of notification of permit decisions, including via electronic mail.

Commissioner Lawrence moved to go into public hearing. Chair Kersey asked for all in favor, the motion passed unanimously (7-0).

Planner Brandon Shoaf provided the Staff report:

### **GENERAL INFORMATION**

**Requested Action:** Review and vote on the proposed text amendment to the Chowan County Zoning Ordinance regarding the following: **3.13 B. 4.- Action on Special Use and Conditional Use Permits**, that now allowed by General Statutes, will provide options of notification of permit decisions, including via electronic mail.

### **ANALYSIS**

This text amendment is staff initiated with the intention of more closely matching NCGS, that allows for notification of permit decision via electronic mail, among other things. The intention is not to solely rely on electronic mail for notification, but to streamline notifying multiple stakeholders, land owners, and any other interested parties.

#### **Currently in the Ordinance:**

4. Decisions by the permit-issuing board on special use and conditional use permit requests shall be filed in the offices of the Planning and Inspections Department. A copy of the permit-issuing board's decision shall be provided, by first class mail, to the applicant as well as to any parties that have requested a written copy of the permit-issuing board's decision.

#### **Proposed Language:**

4. Decisions by the permit-issuing board on special use and conditional use permit requests shall be filed in the offices of the Planning and Inspections Department. A copy of the permit-issuing board's decision shall be provided by personal delivery, electronic mail, or by first class mail to the applicant, property owner, and to any person who has submitted a request for a copy. Clerk to the decision making board shall certify copies of the decision have been provided as set forth herein.

### **RECOMMENDATION**

Staff recommends the change to Section 13 B 4 of the ordinance to help streamline the notification process of permit decisions. In the past large projects, with multiple land owners and stakeholders, took an extreme amount of staff time (and made applicants wait) to provide the decision documentation. Changes to the NCGS allow for more options now, some that have been in our Ordinance for some time, and the addition of electronic mail.



Chair Kersey asked for public comment, there was none.

Commissioner Kirby moved to close the public hearing. Chair Kersey asked for all in favor, the motion passed unanimously (7-0).

Commissioner Faircloth moved that this amendment will be consistent with the 2018 Land Use Plan or any other plan officially adopted by the Board of Commissioners because of the intent to streamline a portion of the County Zoning Ordinance.

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

Commissioner Lawrence moved to approve the text amendment as presented. Chair Kersey asked for all in favor, the motion passed unanimously (7-0).

### **CC-TA-19-03**

Review and vote to amend the Chowan County Zoning Ordinance regarding the following: 11.07 B- Judicial Review, Timing of Appeal, concerning the way the Planning Board, Board of Commissioners' or Board of Adjustment's denial decision is delivered to permit applicants.

Commissioner Lawrence moved to go into public hearing. Chair Kersey asked for all in favor, the motion passed unanimously (7-0).

Planner Brandon Shoaf provided the Staff report:

### **GENERAL INFORMATION**

**Requested Action:** Review and vote to amend the Chowan County Zoning Ordinance regarding the following: **11.07 B- Judicial Review, Timing of Appeal**, concerning the way the Planning Board, Board of Commissioners', or Board of Adjustment's denial decision is delivered to permit applicants.

### **ANALYSIS**

This text amendment is staff initiated with the intention of more closely matching NCGS, that allows for notification of permit decisions via electronic mail, to applicants that have been denied permits by the Planning Board, the Board of Commissioners or the Board of Adjustment and wish to appeal that decision. In our case, the Ordinance allows up to 30 days for someone to appeal those decisions to Chowan County Superior Court.

### **Currently in the Ordinance:**

2. A written copy of the Planning Board's, Board of County Commissioners', or Board of Adjustment's decision has been delivered, by personal service or certified mail, return receipt requested, to the applicant or appellant and every other aggrieved party who has filed a written request for such copy at the hearing of the case.

### **Proposed Language:**

2. A written copy of the Planning Board's, Board of County Commissioners', or Board of Adjustment's decision has been delivered by personal delivery, electronic mail, or by first class mail to the applicant, property owner, and to any person who has submitted a written request for a copy.

### **RECOMMENDATION**

Staff recommends the change to Section 11.07 B of the ordinance to help streamline the notification process of permit denial decisions from the Planning Board, the Board of Commissioners, or the Board of Adjustment. Now that NSGS allows for the notification of this type of decision via electronic mail, it could help turn around time of an applicant filing an appeal if they choose to do so.

Chair Kersey asked for public comment, there was none.

Commissioner Kirby moved to close the public hearing. Chair Kersey asked for all in favor, the motion passed unanimously (7-0).

Commissioner Faircloth moved that this amendment will be consistent with the 2018 Land Use Plan or any other plan officially adopted by the Board of Commissioners because of the intent to streamline a portion of the County Zoning Ordinance.

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

Commissioner Kirby moved to approve the text amendment as presented. Chair Kersey asked for all in favor, the motion passed unanimously (7-0).

### **CC-TA-19-04**

Review and make decision to accept or return to the Planning Board, the proposed text amendment to the Chowan County Zoning Ordinance regarding the following: 8.108 Solar Energy Facilities, replace current section with new language to address setbacks, screening and decommissioning concerns.

Commissioner Lawrence moved to go into public hearing. Chair Kersey asked for all in favor, the motion passed unanimously (7-0).

Planner Brandon Shoaf began providing the staff report. He noted a handout was provided to the Board which highlighted recommended changes from the Planning Board, Staff and County Attorney.

Commissioner McLaughlin stated that this handout was new information and he would like to move to recess this hearing to allow time to digest all of the info.

Commissioner Kirby asked if there are any issues with the regulations on the adoption and timing for text amendments.

County Attorney Lauren Arizaga-Womble stated that the County ordinance allows for amendments in March, June, September and December. She stated the ordinance does allow the

Board to determine that extenuating circumstances exist which allow them to hear text amendments at another time.

Commissioner McLaughlin stated he would like to rescind his previous motion. He then moved to recess the public hearing for this text amendment to the July 15, 2019 meeting due to extenuating circumstances existing due to Board concerns for standards for solar facilities in the ordinance and the Board received additional information from the Planner today giving rise to extenuating circumstances and the need to recess to July 15<sup>th</sup>.

Commissioner Faircloth asked if the information is new in the packet.

Mr. Shoaf stated the information has been in the packet, it is just a mesh of the information provided from different comments and drafts.

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

Ms. Womble noted the public hearing will not have to be re-advertised.

### **Board Appointment**

#### **Library Appointments**

Chair Kersey noted that the following individuals have been recommended for appointment at the request of the local Library:

Pettigrew Regional Library Board Appointee

Faison Winborne

Shepard Pruden Memorial Library Board of Trustees

Garry Outlaw Jr.

Dr. Emma Bonner

Bob Hopkins

Commissioner McLaughlin moved to approve the appointments as presented. Chair Kersey asked for all in favor, the motion passed unanimously (7-0).

### **Extension Liaison**

Ms. Stallings noted that Extension has requested that the Board of Commissioners formally appoint a Commissioner liaison for the Advisory Leadership Board for Cooperative Extension. She stated in the past there has been a farmer on the Board of Commissioners and they have served on this Board.

Commissioner McLaughlin volunteered to serve. Chair Kersey asked for all in favor, the motion passed unanimously (7-0).

### **LGERS Letter**

Chair Kersey noted that at the June 3, 2019 meeting the Board voted to authorize Commissioner Kirby to draft a letter regarding concerns over Chowan County being selected by the Office of the State Auditor to participate in LGERS Testing. A copy of the draft letter is attached for Board review.

Commissioner McLaughlin stated the letter was well written.

Commissioner Bonner moved to approve the letter as presented. Chair Kersey asked for all in favor, the motion passed unanimously (7-0).

A copy of the letter is in the meeting file labeled July 15, 2019.

### **Census Information**

Mr. Howard provided the Board with information on the 2020 Census. Mr. Howard stated that Chowan will need to appoint a Complete Count committee. He stated this census there is a need to make sure that there is representation from the Hispanic community. Board members can give recommended community member names to the manager.

### **Cancel Meeting**

Chair Kersey stated the Board will consider a request to cancel the July 1, 2019 meeting. The next regular meeting will be July 15, 2019 at 6:00pm.

Commissioner Cummings moved to cancel the July 1, 2019 meeting. Chair Kersey asked for all in favor, the motion passed unanimously (7-0).

### **Finance Officer Report**

Mr. Howard provided the Board with the financial reports through the month of May.

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

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

Commissioner Kirby reported the Albemarle Commission hosted a regional meeting regarding water regionalization. He stated that Perquimans County and Chowan were both represented at the meeting. He stated the grant is due in October and information was provided to the Board in a handout.

### **Manager's Report**

County Manager Kevin Howard updated the Board on the following:

- Senior Center bids were over. The architect is discussing options and looking at options regarding the costs for fire suppression to reduce the cost. The Senior Center is moving from COA and a July/ August grand opening will be planned.

### **Timely and Important Matters**

#### **T-Mobile**

Commissioner Bonner asked about the progress on the T-Mobile antenna.

Mr. Howard stated they are finalizing the contract and moving towards construction.

#### **Joint Meeting**

Chair Kersey reminded the Board of the Joint meeting with the School Board on June 18<sup>th</sup> at 6:00pm.

Harbortown Ferry Resolution from Pasquotank County

Chair Kersey noted she provided the Board with a copy of a resolution from Pasquotank County as FYI. She stated she did not wish to put this on the agenda at this time but wanted to give the Board time to read up on the project. She noted the RPO voted to not allow the project to utilize DOT funds for a ferry project. She noted that Representative Goodwin is working on his pilot project and she felt the Board may not want to adopt this resolution at this time. She stated the Board may want to modify the resolution later.

**Adjourn**

Being no further business, Commissioner Bonner moved to adjourn the meeting. Chair Kersey asked for all in favor, the motion passed unanimously (7-0).

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Patti F. Kersey, Chair

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Susanne Stallings, Clerk