

Draft

**BOARD OF COMMISSIONERS
REGULAR MEETING March 27, 2006**

**ALEXANDER COUNTY
STATE OF NORTH CAROLINA**

PRESENT: Larry G. Yoder, Chairman
 W. Darrell Robertson, Vice-Chairman
 Wesley E. Bolick
 William L. Hammer
 W. Norris Keever

STAFF: Rick French, County Manager
 Jamie Starnes, Clerk to the Board

MEDIA: Micah Henry, The Taylorsville Times

The Alexander County Board of Commissioners held a regular meeting on Monday, March 27, 2006 in the Catawba Valley Community College / Alexander Center Multipurpose Room, Taylorsville, North Carolina.

CALL TO ORDER

Chairman Yoder called the meeting to order at 6:00 PM.

INVOCATION & PLEDGE OF ALLEGIANCE

Commissioner Bolick gave the invocation and also led the Pledge of Allegiance to the Flag.

*****SPECIAL RECOGNITIONS*****

The following recognitions took place:

Foothills Board Member

Steven Corley, Director & CEO of Foothills Area Program / LME, recognized Dr. Josephine Foster for her service to Foothills as an outstanding board member from 1997 to 2003. Mr. Corley stated that Dr. Foster had been a guiding force for the entire 4 county region and he thanked her for her contribution.

Commissioner Robertson, on behalf of the entire Board, thanked Dr. Foster for her passion for people and her willingness to serve.

New CVCC Director

Dr. Josephine Foster and John Watts, CVCC Board of Trustees members, introduced Christine Holt who was recently named as the new CVCC / Alexander Center Director. Dr. Foster discussed Ms. Holt's experience and credentials. Mr. Watts mentioned that Ms. Holt stood out far beyond any other candidate during the interview process.

The Board members welcomed Ms. Holt to Alexander County.

Jack Ervin EDI Scholarship

Chairman Yoder recognized David Icenhour, Economic Development Director, who was awarded the Jack Ervin EDI Scholarship during the NCEDA Mid-Winter Conference held this month. The scholarship covers the cost of tuition for the International Economic Development Council's Economic Development Institute to become a Certified Economic Developer.

The Board congratulated Mr. Icenhour on receiving the scholarship.

ADOPTION OF AGENDA

Chairman Yoder stated that Agenda Item #5B (Resolution Establishing Appropriate Verifiable Percentage Goal for Participating by Minority Business) needed to be removed from the agenda because a similar resolution had already been approved in 1999.

Commissioner Robertson made a motion to adopt the agenda as amended. Commissioner Bolick seconded the motion. The Board voted unanimously in favor of the motion.

COUNTY DRUG CARD UPDATE

Leeanne Whisnant, Health Director, announced that the Alexander County Prescription Drug Discount Program would begin on April 3, 2006 with 100% participation from all county pharmacies. She stated that there were 7,000 prescription drug cards available and she noted that citizens could pick the cards up at the Health Department, Social Services, Library, and the Senior Center. She also pointed out that the cards would be available via mail upon request. Ms. Whisnant mentioned that one card would provide coverage for an entire family and could be used nationwide for prescriptions.

Ms. Whisnant informed the Board that a public awareness campaign was being organized for the month of April, which was Public Health Month, that would include radio public service announcements, a newspaper article, County employee informational email, information on the County web site, and an informational letter sent to all health care providers.

PUBLIC HEARING: REZONING CASE 06-2: HERMAN

Sylvia Turnmire, Director of Planning & Development, presented Rezoning Case 06-2 submitted by Harvey Herman. The applicant requested rezoning of property located at 2477 N.C. Highway 16 North from RA-20 (Residential-Agricultural) to H-C (Highway Commercial). The size of the property is .918 acres and the current land is a converted commercial building, a singlewide manufactured home, and a commercial garage. Ms. Turnmire stated that zoning within 100 feet of the property was RA-20 to the north, south, east, and west. There is a single-family site-built home, agricultural buildings, a pasture, and a convenience store to the north of the property as well as agricultural land to the south, agricultural land and a poultry farm to the east, and agricultural land and a single-family site-built home to the west.

Ms. Turnmire stated that, according to Tax Department records, the primary existing structure was constructed in 1959 and was used as a service station for a number of years before being converted to residential use. She pointed out that the existing residential structures were used for rental property that included an existing 1,200 square foot garage. Ms. Turnmire informed the Board that the property was zoned RA-20 when countywide zoning was adopted in 2001.

Ms. Turnmire stated that the site was currently served by an eight inch public water line, provided by the City of Hickory, and an individual septic system. She explained that if rezoned, current landscaping requirements would apply to the southern property line as well as signage and parking regulations.

Ms. Turnmire explained that, because the property was surrounded by a zoning district that was considerably different from the requested district, this was a "small scale rezoning request" or spot zoning request which is "invalid or illegal unless there is a clear reasonable basis for treating the singled out property differently from adjacent land." Ms. Turnmire noted that for any case involving spot zoning, the following questions must be addressed:

1. Did the zoning activity in the case constitute spot zoning as our courts have defined that term; and
2. If so, did the zoning authority make a clear showing of a reasonable basis for zoning by determining the following 4 factors?:
 - a. The size of the tract;
 - b. The compatibility of the disputed zoning action with an existing comprehensive plan;
 - c. The benefits and detriments resulting from the zoning action for the petitioning property owner, neighbors, and surrounding community; and
 - d. The relationship between the uses envisioned under the new zoning and the current uses of adjacent land.

Ms. Turnmire addressed staff comments in regard to these 4 factors to show a reasonable basis for zoning, which included:

2a. The size of the tract:

The size of the subject property is .918 acres. The sizes of surrounding properties are:

West – 126 acres
North – 1.36 and 176.577 acres
South – 12.704 and 126 acres
East – 12.704 and 13.180 acres

2b. The compatibility of the disputed zoning action with an existing comprehensive plan:

1. Section 154.165 of the Alexander County Zoning Ordinance states that the H-C Highway Commercial District is established to provide suitable locations for those commercial activities which serve primarily the traveling public, including those which function rather independently of each other.
2. Section 154.140 of the Alexander County Zoning Ordinance states that the RA-20 Residential-Agricultural District is established as a district in which the principal use of the land is for low-density residential and agricultural purposes including single-family dwellings, two-family dwellings, individual manufactured homes, and related uses necessary for a sound neighborhood. The regulations for this district are designed to stabilize and encourage a healthful environment for family life in areas where neither public nor community water or sewer facility are available.
3. The 1993 Land Development Plan identifies this area as lying in a "Limited Transition" area which has the purpose of "providing for development in areas that will have some services but that are only suitable for lower densities than those associated with the Urban Transition class and/or areas that are geographically remote from existing towns and municipalities. Areas meeting the intent of the Limited Transition classifications will experience increased development necessitating some municipal services such as community water or sewage systems."
4. The Alexander County Thoroughfare Plan mentions that the upgrading of N.C. Highway 16 from the Catawba County line to the Wilkes County line is an "identified future need." This project has not been scheduled for construction. The Town of Taylorsville Urban Thoroughfare Plan does include the widening of N.C. Highway 16 to 4 lanes to the southern intersection of Walker Foundry Loop. The N.C. Department of Transportation 2003 average annual daily traffic count for this section of Highway 16 North was 6,700 trips per day.

2c. The benefits and detriments resulting from the zoning action for the petitioning property owners, neighbors, and surrounding community:

The board must determine what effect the rezoning will have upon the entire community as a social, economic, and political unit.

2d. The relationship between the uses envisioned under the new zoning and the current uses of adjacent land:

If rezoned to H-C, any use listed in the use matrix would be allowed, not just the uses of which the applicant is applying. All immediate adjacent land is used for residential and agricultural purposes.

Common uses allowed in the H-C District include but are not limited to gas stations, retail stores, and business offices.

Ms. Turnmire stated that letters were sent by first class mail to the property owners within 100 feet of the parcel boundary, a sign was posted on the property, and an advertisement was placed in *The Taylorsville Times*. She noted that staff received 3 calls regarding the proposal which included 2 calls for general information and one call from an individual requesting the Planning & Zoning Commission's recommendation after consideration of the request.

Ms. Turnmire informed the Board that Planning & Development staff recommended approval of the rezoning request based on the following:

1. The initial use was commercial in nature and predates the zoning ordinance.
2. The use is consistent with the Land Development Plan because the property is located within a "Limited Transition" area.
3. The proposed use is allowed within the Highway Commercial Zoning District.

Ms. Turnmire also pointed out that the Planning & Zoning Commission reviewed the request on March 2, 2006 and unanimously recommend approval based upon the following:

1. The request is consistent with "limited transition area" as identified by the Alexander County Land Development Plan.
2. The previous commercial use of the property.

Ms. Turnmire explained that based on the information provided, the Board must determine whether the rezoning request meets the guidelines as set forth. She also noted that Section 154.351(C)(2) of the Zoning Ordinance required the Board to provide a statement analyzing the reasonableness of the proposed zoning including the "small scale rezoning" factors in support of the adoption or rejection of the amendment.

Chairman Yoder called the public hearing to order and requested any public comment.

Public Comment

Harvey Herman stated that the subject property had always been considered as commercial. He mentioned that his father had built the structures on the property and he noted that he wanted to lease the buildings to an individual who would be holding yard sales on a regular basis.

There being no further public comment, Commissioner Bolick made a motion to close the public hearing. Commissioner Keever seconded the motion. The Board voted unanimously in favor of the motion.

Commissioner Keever made a motion to approve Rezoning Case 06-2 based on the following:

1. The initial use was commercial in nature and predates the zoning ordinance.
2. The use is consistent with the Land Development Plan because the property is located within a "Limited Transition" area.
3. The proposed use is allowed within the Highway Commercial Zoning District.

Commissioner Hammer seconded the motion. The Board voted unanimously in favor of the motion.

UPDATE ON HYDRORELICENSING ISSUES

Kevin Greer, City of Hickory Public Services, gave a review of Duke Power's Agreement-in-Principle (AIP), which included the following information:

Catawba-Wateree System

- 13 hydro stations and 11 reservoirs.
- Supports more than 8,000 Mw of power that serves over 2 million customers.
- Provides multiple uses of the resource to over 14 counties, 2 states, and approximately 30 cities.

Relicensing Process

- Federal Energy Regulatory Commission (FERC) requires license for all non-federal hydroelectric project.
- Federal Power Act requires "equal consideration" to power production and non-power production benefits including fish, wildlife, recreation, and water quality.

5.0 Actions to Support Water User Needs

- Establishes a Water Management Group charged with identifying, funding, and managing projects designed to protect and enhance storage and promote water conservation.
- Participating in the group is "voluntary" and members are required to pay annual dues.
- Public water system dues will be based on Annual Average Daily gross withdrawals in 5 year window averages.
- Membership in the group will be available to public water supplies withdrawing one MGD or greater, Duke Power, and one member delegate representing the 100,000 per day to one MGD for North and South Carolina each.
- Members of the group will be on equal standing with equal powers of voting. Project schedules will be established annually and voted on by the group.
- Duke Power is an equal member of the group and pays into the fund also.

- Water Management Group funds will be used to improve the Catawba River Basin as a whole and funds will not be used to offset existing operational costs.
- Members will not be charged withdrawal fees from Duke Power for the term of the license.
- Duke Power studied and proposed water withdrawal fees in 2002.
- Three fee scenarios were examined. One proposal uses potential lost revenues as the basis. This method equates to approximately \$287,000 to the City of Hickory.
- Under the Water Management Group Fund calculation method, the City of Hickory's Year 1 (2009) dues will be approximately \$25,900.
- Public water suppliers who are not members of the group will be subject to Duke Power withdrawal fee charges.

6.0 Low Inflow Protocol

- The Low Inflow Protocol (LIP) will provide a coordinated response among all water users along the Catawba Basin during periods when inflows to the basin are not sufficient to meet power generation and other water needs.
- This plan establishes a 5 step (Stage 0 to 4) approach with increasingly aggressive strategies being implemented for conserving water as inflow and drought conditions worsen. Each stage results in hydro-electric, recreational flow, and Public Water Supply conservation.
- The LIP establishes triggers that initiate the LIP and determine the particular stage being implemented including a reservoir storage index, SEUS drought monitor, and monitored USGS stream flow gages.
- LIP establishes a Drought Management Advisory Group that meets annually to discuss basin water issues and is activated in the event triggers indicate an impending drought condition or continuing drought.
- Establishment of LIP in Catawba Basin will address NCDENR rule requiring basin wide conservation plans and this will be the rules by which all the Catawba Basin public water suppliers have to follow.

Sylvia Turnmire, Director of Planning & Development, reiterated from the February 20, 2006 Commissioners' Meeting that Duke Power was proposing a swim beach at either the Wittenburg Access Area or at the Oxford Dam as a part of the hydrorelicensing agreement. She also pointed out that, if the swim beach was developed in Wittenburg, Duke Power was proposing that Alexander County maintain the beach and associated restrooms through the access area initiative program, similar to the current lease for Dusty Ridge Park.

Ms. Turnmire stated that similar swim beaches were open from Memorial Day until Labor Day weekend from 11:00 AM to 6:00 PM, seven days a week. She informed the Board that, according to Duke Power officials, the maintenance of a swim beach consisted of the occasional replacement of floatation devices that create the beach boundary and replacing sand. However, she noted that the main concern surrounded public safety, including law enforcement and the presence of a lifeguard.

Ms. Turnmire pointed out that County Attorney Robert Campbell had stated that from a legal standpoint the County would be in a better position not to provide a lifeguard and post it as a

swim at your own risk, etc. with increased law enforcement presence. However, she also pointed out that Robin Bradley, our liability insurance representative, suggested a lifeguard be present as well as the posting of rules with operating hours, no slides or alcohol, and a gate to close off access to the swim beach. Ms. Turnmire informed the Board that Ms. Bradley could not provide a cost estimate for liability insurance but did state that the insurance would increase with or without a lifeguard because the area would be open to the public and open to more exposure.

Ms. Turnmire stated that Sheriff Hayden Bentley felt it would be important to set a standard for law enforcement presence from the onset. Sheriff Bentley suggested a part-time deputy be on duty for the first few months during the time the beach would be open and for patrolling in the evening. The deputy would then transition to periodic patrol. During the off-season when the swimming area would be closed, Sheriff Bentley suggested the area be patrolled through the current route with no additional costs.

Ms. Turnmire presented the following estimated costs associated with a swim beach per year. She stated that the lifeguard could be responsible for cleaning the restrooms and picking up trash and County personnel could handle building maintenance:

1.	With Lifeguard	No Lifeguard
<u>Personnel</u>		
Part-time deputy/patrol	\$8,500	\$8,500
Lifeguard	\$8,300	--
Maintenance	--	\$2,560
Subtotal	\$16,800	\$11,060

2.	With Lifeguard	No Lifeguard
<u>Supplies</u>		
Stone/sand	\$2,500	\$2,500
Signs	\$1,000	\$1,000
Cleaning supplies	\$1,500	\$1,500
Subtotal	\$5,000	\$5,000
Total Estimated Operating Costs	\$21,800	\$16,060
Liability Insurance Costs	--not known at this time--	

Ms. Turnmire again noted that Duke Power had not made any decision yet as to whether this swim beach would be located at the Wittenburg Access or at the Oxford Dam.

Commissioner Robertson suggested Rick French, County Manager, evaluate these cost during the budget process.

BUDGET ORDINANCE AMENDMENTS #48 - #52

Rick French, County Manager, discussed the purpose of Budget Amendments #48 - #52, which included the following information:

Budget Amendment #48 – To budget for payment of CVCC utility costs from the Public Buildings Department. To budget for an AFLAC refund for a DSS employee. To increase the budget for debt principal payments due to debt incurred for E911 equipment in August 2005. To increase the budget for estimated transfers of the school system's portion of sales tax. To budget for the County's local match for the Paragon Project (\$6,080) and the Mitchell Gold Project (\$3,125).

Budget Amendment #49 – To budget for the 2005-2006 payment to the school system for the auditorium reimbursement. To increase the budget for estimated transfers of the school system's portion of sales tax.

Budget Amendment #50 – To budget for the closeout of the DSS Building Addition project.

Budget Amendment #51 – To budget for updated cost estimates for the 911 Communications Project.

Budget Amendment #52 – To increase the budget for revised estimates for water revenues and administrative fees.

Commissioner Hammer made a motion to approve Budget Amendments #48 - #52. Commissioner Bolick seconded the motion. The Board voted unanimously in favor of the motion.

OTHER BUSINESS

Rick French, County Manager, discussed a letter from Linda Mundy, Elections Director, which stated that the Board of Elections would once again be using the old Wittenburg Elementary School gym for the Taylorsville One Precinct on Tuesday, May 2, 2006 from 6:00 AM until after the closing of the polls at 7:30 PM for the May Primary Election.

CONSENT AGENDA

- A. Minutes from the March 13, 2006 Regular Commissioners' Meeting.
- B. Refund of permit fees.

Commissioner Hammer made a motion to approve the Consent Agenda. Commissioner Bolick seconded the motion. The Board voted unanimously in favor of the motion.

**CLOSED SESSION – N.C.G.S. 143-318.11(a)(1, 4, 5, & 6) TO PREVENT DISCLOSURE
OF CONFIDENTIAL INFORMATION, ECONOMIC DEVELOPMENT,
CONTRACTUAL, & PERSONNEL**

Chairman Yoder made a motion to enter into Closed Session at 7:16 PM to prevent the disclosure of confidential information and to discuss economic development, contractual matters, and personnel issues pursuant to N.C.G.S. 143-318.11(a)(1, 4, 5, & 6). Commissioner Keever seconded the motion. The Board voted unanimously in favor of the motion.

ADJOURNMENT

There being no further business, Commissioner Robertson made a motion to adjourn at 7:37 PM. Commissioner Hammer seconded the motion. The Board voted unanimously in favor of the motion.

Larry G. Yoder, Chairman

Jamie M. Starnes, Clerk to the Board