

Draft

**BOARD OF COMMISSIONERS**  
**REGULAR MEETING**     February 1, 2010

**ALEXANDER COUNTY**  
**STATE OF NORTH CAROLINA**

**PRESENT:**    Larry G. Yoder, Chairman  
                  Ryan Mayberry, Vice-Chairman  
                  Wes Bolick  
                  Harold M. Odom  
                  W. Darrell Robertson

**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, February 1, 2010 in the CVCC / 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 Commissioner Robertson led the Pledge of Allegiance to the Flag.

**COMMISSIONER'S REPORT**

Commissioner Robertson congratulated Commissioner Odom and his wife Linda on their 51<sup>st</sup> wedding anniversary on January 31<sup>st</sup>.

Chairman Yoder asked the Board to remember Town Council Member Jack Lerner who was experiencing some health problems.

**ADOPTION OF AGENDA**

Chairman Yoder requested the addition of a change order for the Northeast Area Water System to be added after the County Manager's Report.

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

## **PUBLIC COMMENT**

There was no one present to speak during the Public Comment Period.

## **PUBLIC HEARING: REZONING CASE 10-1 – MECIMORE**

Sylvia Turnmire, Director of Planning & Development, presented Rezoning Case 10-1 submitted by David Mecimore who requested rezoning of property located at 2320 Highway 16 South from H-C (Highway Commercial) to RA-20 (Residential-Agricultural) to allow for a doublewide manufactured home. The size of the property tract is 20.48 acres and the current land use is vacant. Ms. Turnmire stated that zoning within 100 feet of the property was RA-20 to the north and west, H-C to the south and east, as well as L-1 to the east. Land uses within 100 feet of the property include a manufactured home and single-family residential to the north and south, a County convenience site and vacant property also to the south, office / institutional and manufacturing to the east, and the fairgrounds to the west.

Ms. Turnmire stated that the subject property was currently vacant but that a single-family home had previously been located on the property. In 2004, Mike Bonwill submitted a 46-lot preliminary subdivision for the subject property which never received approval. She explained that in 2007, Hall Ventures, represented by Mike Bonwill, submitted a rezoning request to change the property from RA-20 to H-C, which was approved. This property is located with a Class IV Protection Watershed Area with a limit of a 24% maximum built-upon area.

She reported that Section 154.140 of the Zoning Ordinance states that the RA-20 District is established to provide low-density residential and agricultural purposes including single-family dwellings, two-family dwellings, individual manufactured homes, and related uses. Section 154.170 states that the H-C District is to provide suitable locations for those commercial activities which serve primarily the traveling public, including those which function rather independently of each other.

Ms. Turnmire pointed out that the 2008 Alexander County Comprehensive Plan showed this area as being industrial in nature and that the property was in close proximity to public water and sewer services. The 1995 Thoroughfare Plan shows upgrading Highway 16 from the Catawba River to the Wilkes County line as an unfunded future need. The 2007 annual average traffic count for this section of Highway 16 South is 12,000 trips per day.

She 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*. Staff did not receive any comments and no opposition was stated at the Planning & Zoning Commission hearing.

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

1. Proximity of similar zoning districts.
2. Previously existing residential use of the property.

The Planning & Zoning Commission held a public hearing on January 7, 2010 to consider the request and voted unanimously to approve the rezoning request and consistency with adopted plans based on the following supporting facts:

1. Proximity of similar zoning districts.
2. Previously existing residential use of the property.

Ms. Turnmire stated that based on the information provided, the Board must determine whether the rezoning request meets the guidelines set forth above. She also noted that Section 154.351(B) of the Alexander County Zoning Ordinance required the Board to state whether the request was consistent with adopted plans.

Chairman Yoder called the public hearing to order and requested any public comment. There being no comments made, Commissioner Bolick made a motion to close the public hearing. Commissioner Robertson seconded the motion. The Board voted unanimously in favor of the motion.

Commissioner Robertson made a motion to approve Rezoning Case 10-1 based on findings from Planning & Development staff and the Planning & Zoning Commission. Commissioner Bolick seconded the motion. The Board voted unanimously in favor of the motion.

#### **PUBLIC HEARING: REZONING CASE 10-2 – DONALD BOYD**

Sylvia Turnmire, Director of Planning & Development, presented Rezoning Case 10-2 submitted by Donald Boyd who requested rezoning of property located at 410 Walker Foundry Loop from RA-20 (Residential-Agricultural) to H-C (Highway Commercial) to allow for commercial storage and an auction house. The size of the property tract is 2.32 acres and the current land use is a vacant building (former industrial use). Ms. Turnmire stated that zoning within 100 feet of the property was RA-20 on all sides. Land uses within 100 feet of the property include single-family site-built to the north and west, vacant property to the south, and a doublewide manufactured home to the east.

Ms. Turnmire stated that the subject property was obtained by the current owner in 2008. Tax records indicate the structure was built in 1963, a portion of which was demolished in 2008. The property is served by an 8-inch water line and individual septic system.

She explained that, because the property was completely surrounded by a zoning district considerably different from the requested district, this was a “small scale rezoning” 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 mentioned 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 the 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.
  - 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 2.32 acres. The sizes of surrounding properties are:

- North – 1.74 acres
- South – 3.63 acres
- East – 2.0 acres
- West – 2.0, 2.38, and 2.44 acres

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

1. Section 154.140 of the Alexander County Zoning Ordinance states that the RA-20 District is established to provide low-density residential and agricultural purposes including single-family dwellings, two-family dwellings, individual manufactured homes, and related uses
2. Section 154.170 of the Alexander County Zoning Ordinance states that the H-C District is to provide suitable locations for those commercial activities which serve primarily the traveling public, including those which function rather independently of each other.

3. The 2008 Comprehensive Plan shows this property as being in a future commercial area due to the close proximity of Highway 16.
4. The 1995 Thoroughfare Plan does not mention improvements or traffic counts for Walker Foundry Loop.

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

The Board must determine what impact the rezoning will have upon the adjacent property owners and the surrounding community. The benefits of the rezoning should outweigh any potential inconvenience or harm to the community.

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

The closest H-C zoning district is approximately 700 feet to the south on Highway 16, owned by Terry Elder for an off-premise outdoor advertising sign. A retail store is zoned H-C at the upper intersection of Walker Foundry Loop and Highway 16, approximately 1,500 feet north of the subject property. All immediately adjoining properties are occupied by single-family homes.

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 two phone calls from individuals requesting information and no opposition was given at the Planning & Zoning Commission hearing.

She informed the Board that Planning & Development staff recommended approval of the request due to the following:

1. The subject tract is of no greater size than surrounding properties.
2. The property lies within an identified future commercial area within the Land Development Plan.

She also stated that the Planning & Zoning Commission held a public hearing on January 7, 2010 to consider the request, where the Commission unanimously voted to approve the rezoning request based on the following findings:

1. The request falls within the parameters of the Comprehensive Plan.
2. The existing building is more suitable to a commercial use than residential.

Ms. Turnmire advised that based on the information provided, the Board must determine whether the rezoning request meets the guidelines set forth above. She also noted that Section 154.351(C)(2) of the Alexander County Zoning Ordinance required the Board to provide a

statement analyzing the reasonableness of the proposed rezoning and reflecting consideration of the 4 legitimate factors for differential zoning treatment of the property involved.

Chairman Yoder called the public hearing to order and requested any public comment. The following comments were heard:

**Public Comment**

Donald Boyd, owner of subject property, stated that he had spent a considerable amount of money cleaning up the property and restoring the original buildings. He felt commercial storage and an auction house was suitable for the property, noting that his neighbors were in favor of his plans and did not want another factory there. He introduced two of his neighbors, Robert St.Clair and Robert Garwood, who were present to support Mr. Boyd.

Robert Garwood asked if other uses besides what Mr. Boyd was proposing could be allowed after rezoning. Ms. Turnmire explained that any H-C use could be allowed if rezoning was approved; however, she mentioned that another factory would have to obtain approval from the Board to rezone the property as L-I or H-I before operations could begin.

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

Commissioner Odom made a motion to approve Rezoning Case 10-2 based on findings from Planning & Development staff and the Planning & Zoning Commission. Commissioner Robertson seconded the motion, stating that this property should have been zoned different when countywide zoning was originally adopted. The Board voted unanimously in favor of the motion.

**LOCAL EMERGENCY PLANNING COMMITTEE ANNUAL REPORT**

Russell Greene, Emergency Services Director and LEPC Chairman, presented the 2009 LEPC annual report, which included the following information:

The Alexander County LEPC met on February 6, 2009. A total of 16 members, two visitors, two state staff, and 4 County staff were present and the meeting was chaired by Russell Greene. Leeanne Whisnant, Health Director, was elected to serve as vice-chair. The following items were discussed and action was taken as needed:

1. Regionalization – status of current regional projects and possibility of adding two additional regions.
2. The appointment of LEPC by Board of Commissioners as Hazard Mitigation Task Force to update current Hazard Mitigation Plan.

3. HB 2432 – Senate Select Committee asking for suggestions to improve emergency management statewide.
4. Review incidents requiring multiple agency response.
5. LEPC Annual Report.
6. Tier II Report.
7. Update from state staff concerning current planning efforts.

At the December 3, 2009 meeting, 10 members, one visitor, one state staff, and 3 County staff were present and the following items were presented:

1. Regionalization, formation of two new regions, and possible projects.
2. Hazard Mitigation Plan update.
3. Emergency Operations Plan update.
4. Grants update.
5. Agency report – Public Health H1N1.
6. Significant incident review.
7. Development of Point of Distribution Plan.

Mr. Greene also mentioned that the Board would be considering some reappointments of LEPC members later in the meeting. He thanked those members, noting that they would be tasked with the update of the County’s Emergency Operations Plan in the coming months.

Commissioner Robertson inquired about the need for two additional regions. Mr. Greene replied that the former regions were too large and not manageable and that the formation of the additional regions had been successful.

**Oxford Dam**

Mr. Greene discussed the significant amount of rainfall on January 24-25, 2010 which resulted in Duke Power raising two gates at Oxford Dam, one at 10 feet and one at 16 feet. He provided a few photos of the dam and mentioned areas of water crossing. Mr. Greene also noted that a small mud slide occurred on Barrett’s Mountain.

**Snow Storm**

On Friday and Saturday, January 29-30, 2010, the county received 6 to 7 inches of snow. Mr. Greene also showed some photos of road conditions in Alexander and other counties and he thanked the NCDOT crews for keeping the roads safe.

In conjunction with the storm, Alexander County 911 received the following calls from January 29 – February 1, 2010:

<u># of Calls</u>	<u>Type of call</u>
calls dispatched – 204	0 – Animal Control
911 calls received – 281	83 – Sheriff’s Office
non-911 calls received – 676	15 – Rescue Squad
radio transmissions – 2,720	39 – EMS
	21 – Fire

Mr. Greene informed the Board that weather forecasts anticipated freezing rain in the morning with a ¼ inch accumulation.

### USDA WATER PROPOSAL

Rick French, County Manager, presented a proposal from McGill Associates for preparing the preliminary engineering report and environmental assessment for the USDA water projects at a cost of \$40,000. He explained that the County wished to apply for a 40-year loan with USDA at 4.35% for the following water projects and that the report and assessment were necessary to move forward:

Project Name	Cost	# of Customers
Blakenship North 8" line	\$516,000	42
Devil Track/Blakenship 8" line	\$607,000	20
Teague Town 8" & 12" line	\$533,000	38
Barrett Mountain water tank	\$761,000	10
Church Road South 8" line	\$380,000	25
Church Road North 8" line	\$597,000	57
Alsbaugh Dam/Church 8" & 12" line	\$905,000	25
Liledoun Road Ext. 8" line	\$161,000	0
Jenkins-Moose 8" line	\$118,000	0
Zeb Watts, Ned Herman, Liberty Grove 8" loop	\$1,600,000	71
Polly Bowman area 8" line	\$820,000	41
Bethlehem Water Improvements	\$2,200,000	40
<b>Total</b>	<b>\$9,198,000</b>	<b>369</b>

Commissioner Robertson advised that completion of these lines would create a loop addressing low pressure areas and providing backups to existing lines and expansion possibilities.

Commissioner Bolick expressed concerns with whether the County could afford the \$40,000 to McGill given the budget situation as well as the loan payments. He felt unsure about spending that money without a guarantee that the County would be approved for the loan and he inquired about how often the engineering report and assessment would have to be updated in the event the County did not receive the loan.

Mr. French replied that all funding related to these projects would be taken from the Water Fund, a separate account generated from water user fees, and would not affect the General Fund or sales tax revenues. Given that fact, Mr. French believed the County could afford this opportunity. He also stated that these USDA funds would not be available after this cycle so there would be no need to update the reports.

Commissioner Mayberry pointed out that a typical loan for water lines was 15-18 years. Mr. French agreed, noting that the County wouldn't be able to afford these projects if not for the 40-

year loan being offered by USDA. Staff also anticipates receiving word from the Rural Center related to a grant application for a portion of Church Road.

Commissioner Robertson made a motion to allow McGill Associates to proceed with preparing the preliminary engineering report and environmental assessment. Commissioner Mayberry seconded the motion. The Board voted unanimously in favor of the motion.

## FINANCIAL REPORT

Rick French, County Manager, discussed the loss of sales tax revenue for 2009-2010, which included the following information:

	Article 39	Article 40	Article 42	Article 44	Article 46
Collected	\$538,102.17	\$556,969.25	\$290,600.68	\$99,444.40	\$150,546.45
Budgeted	\$1,612,100.00	\$1,348,000.00	\$448,100.00	\$70,200.00	\$401,100.00
Percentage	33.38%	41.32%	64.85%	141.66%	37.53%

He reported that Article 44 would be eliminated due to the Medicaid swap and that Article 42 had changed from per capita to point of sale, which hurt the smaller, rural counties. In addition, counties are required by the state to hold the Town and schools harmless (\$600,000 in Alexander County). The Board has met with Representative Ray Warren and Steve Goss who are committed to doing what they can to change the formula back to per capita.

Commissioner Robertson added that the Board planned to work with counties of similar size in an effort to get the sales tax formula changed back.

Commissioner Bolick felt the 2010-2011 budget could be much tougher than the current year. Mr. French agreed, mentioning current cost saving efforts such as furlough days and budget cuts, but noted that he was working on a plan for further reductions.

Chairman Yoder encouraged the public to shop at home as much as possible to keep sales taxes here.

Commissioner Mayberry suggested this information be included in *The Taylorsville Times*.

## BOARD APPOINTMENTS & REAPPOINTMENTS

Rick French, County Manager, requested the appointment of Michael Carrigan and Randy Bumgarner as well as the reappointment of Steve Icenhour, Micah Henry, John McCurdy, and Keith Whitener to the LEPC for 3-year terms. In addition, he asked that Chris Bowman be appointed to serve out the unexpired term of former Sheriff Hayden Bentley whose term expires in 2011.

Commissioner Robertson made a motion to approve the appointments and reappointments as presented. Commissioner Odom seconded the motion. The Board voted unanimously in favor of the motion.

### **BUDGET ORDINANCE AMENDMENTS #28 - #30**

Rick French, County Manager, discussed the purpose of Budget Amendments #28 - #30, which included the following information:

Budget Amendment #28 – To increase the Information Technology budget for anticipated PEG channel revenue in excess of original estimates. To increase the Information Technology budget and decrease the Social Services budget for a position that should be included in the Information Technology budget. To increase the Public Buildings budget for the purchase of two toilets at the jail. To budget for a pass-through of NCDOT grant funds to the Western Piedmont Regional Transit Authority.

Budget Amendment #29 – To increase the Health Department budget for Smokefree Law State monies, WIC Peer Counseling funds, and Family Planning Bonus state funds. To increase the Social Services budget and decrease the JCPC budget for the Nurturing Program administered by the DSS Office. To increase the Senior Center budget for activities funded by donations.

Budget Amendment #30 – To budget for professional fees for a preliminary engineering report and environmental assessment for the proposed water project with USDA funds.

Commissioner Robertson made a motion to approve Budget Amendments #28 - #30. Commissioner Mayberry seconded the motion. The Board voted unanimously in favor of the motion.

### **OTHER BUSINESS**

Rick French, County Manager, discussed the following issues during Other Business:

- A. The tour of the new Ashe County Law Enforcement & Detention Facility has been rescheduled for Friday, February 5, 2010 from 1:00-4:00 PM.
- B. The Community Grants information and packet were presented. A budget amendment will be prepared for the next meeting. Grants will be due on February 26, 2010.

Commissioner Robertson made a motion to approve the County Manager's Report. Commissioner Bolick seconded the motion. The Board voted unanimously in favor of the motion.

## **NORTHEAST AREA WATER PROJECT CHANGE ORDER**

Rick French, County Manager, presented Change Order #2 from Neill Grading & Construction Co. for the Northeast Area Water Project for the addition of a 6-inch water line along Daniels Lumber Road, a portion of Center Church Road, and King Sprinkle Road as well as a reduction of liquidated damages provision in Article 4.03.A of the agreement from \$500 per day to \$250 per day.

Commissioner Robertson made a motion to approve the change order as presented. Commissioner Bolick seconded the motion. The Board voted unanimously in favor of the motion.

## **CONSENT AGENDA**

- A. Minutes from the January 19, 2010 Regular Commissioners' Meeting.
- B. CDBG-R Project #09-R-1956 Emergency Repair Housing Project Budget Ordinance.

Commissioner Robertson made a motion to approve the Consent Agenda. Commissioner Mayberry 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 THE DISCLOSURE OF CONFIDENTIAL INFORMATION, ECONOMIC DEVELOPMENT, CONTRACTUAL, & PERSONNEL**

Chairman Yoder made a motion to enter into Closed Session at 7:15 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 Robertson 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 7:48 PM. Commissioner Odom seconded the motion. The Board voted unanimously in favor of the motion.

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Larry G. Yoder, Chairman

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Jamie M. Starnes, Clerk to the Board