

Draft

BOARD OF COMMISSIONERS
REGULAR MEETING September 6, 2011

ALEXANDER COUNTY
STATE OF NORTH CAROLINA

PRESENT: W. Darrell Robertson, Chairman
 James "Burkie" Jennings
 Judy M. Moose
 Larry Yoder

ABSENT: Ryan Mayberry, Vice-Chairman

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

The Alexander County Board of Commissioners held a regular meeting on Tuesday, September 6, 2011 at the CVCC / Alexander Center in Room 103, Taylorsville, North Carolina.

CALL TO ORDER

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

INVOCATION & PLEDGE OF ALLEGIANCE

Commissioner Yoder gave the invocation and Commissioner Moose led the Pledge of Allegiance to the Flag.

COMMISSIONER'S REPORT

Chairman Robertson advised that Commissioner Yoder was selected as the NCACC District 13 Caucus Representative at the annual NCACC Conference held in Concord, NC. Commissioner Yoder will be representing Alexander, Caldwell, Catawba, and Burke Counties.

Commissioner Jennings encouraged everyone to remember those individuals who lost their lives on September 11, 2001 as well as the many emergency services workers who aided in the response and cleanup.

ADOPTION OF AGENDA

Chairman Yoder requested the addition of Budget Amendment #9 as well as David Icenhour, Economic Development Director, as a speaker during the Report on Bids for Rocky Face Park.

Commissioner Yoder made a motion to adopt the agenda as amended. Commissioner Jennings 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: CONDITIONAL USE PERMIT 11-5 = WATTS

Jamie Starnes, Clerk to the Board, presented an oath of sworn testimony to all individuals wishing to speak during the conditional use hearing.

Seth Harris, County Planner, presented Conditional Use Permit 11-5 submitted by James Watts who requested conditional use approval for an outdoor flea market at property located at 166 Teague Town Road (former Clayton Marcus) and owned by Harvest Time Revivals, Inc. The size of the property is 13.14 acres, zoned L-I; however, the project area totals 11.5 acres. The current land use is a parking lot and industrial building. Mr. Harris stated that zoning with 100 feet of the subject property was RA-20 to the north, L-I to the south, east, and west as well as H-C to the west. Land uses within 100 feet include single family residential to the north and west, vacant industrial buildings and Bethlehem Park to the south, vacant property, a furniture factory, and a community building to the east, and a service station, restaurant, and a legal office to the west.

He stated that the subject property has frontage on Teague Town Road and Bethlehem Park Lane. No utility extensions have been proposed. He advised that Tax Office records indicate that the original Clayton Marcus factory was built in 1962 while deed records indicate that the land was transferred to the Clayton Marcus Company in 1963. The property was zoned Industrial when Bethlehem Zoning was adopted in 1987 and subsequently zoned L-I when countywide zoning was adopted in 2001.

Mr. Harris informed the Board that the L-I District allowed outdoor flea markets with conditional approval by the Board of Commissioners. He noted that the proposed use would operate entirely within the existing parking lot and accommodate 200 vendors with the existing guard house being used as an office. A total of 285 marked parking spaces have been designated, including 8 handicap spaces, and an unmarked two acre area portion has been reserved for overflow parking. The proposed use will be open from 6:00 AM until 4:00 PM on Fridays and Saturdays, with gates opening at 6:00 AM for vendors and 8:00 AM for customers. The vendor area is surrounded by chain link fence and an opaque barrier will be placed on those portions of the fence adjacent to residential areas.

He stated that letters were sent by first class mail to adjoining property owners, a sign was posted on the property, and a legal advertisement was placed in *The Taylorsville Times* to announce the public hearing. Staff received 11 calls in opposition to the request as well as 3 calls in favor.

Mr. Harris advised that the Zoning Ordinance states that in granting a conditional use permit, the Board must find that:

a) The application meets all of the regulations in the zoning district in which it is proposed;

Outdoor flea markets are an allowable use in the L-I zoning district.

Parking space requirements for retail type uses call for one space for each 200 square feet of floor space. Total sales area is 71,550 square feet, which would require 358 parking spaces. The current proposal doesn't meet this requirement; however, space is available for additional marked parking spaces. The Ordinance makes provisions for allowing the Board to place a time restraint on completing conditions that may require substantial capital investment.

Placing an opaque barrier along the property lines adjacent to residential uses will satisfy landscaping requirements.

Setback requirements state that any non-residential use in the L-I district must be set back from the property line of any residential use a minimum of 45 feet.

b) The use for which the conditional use permit is sought will not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use;

The Board must determine what affect the proposed use will have upon the neighborhood.

c) Will not be detrimental to the public welfare or injurious to the property or public improvements in the neighborhood;

The Board must determine the impact to property and on public improvements in the neighborhood.

He reported that staff recommended approval of the conditional use permit with the following conditions:

1. The applicant shall have 6 months to mark additional parking spaces to meet ordinance requirements.
2. An opaque barrier must be placed on the existing fence along areas adjacent to residential uses. The barrier shall be maintained so as to remain opaque at all times.

3. All activities related to the use, outside of grounds maintenance, shall be conducted on Fridays and Saturdays between the hours of 6:00 AM and 4:00 PM.
4. Minimum setbacks from residential uses shall be maintained for all vendor sites.
5. Grounds shall be kept in a manner consistent with all County ordinances.
6. Any expansion of the approved number of vendor sites will require additional approval by the Board of Commissioners.

Chairman Robertson asked if NCDOT had been consulted regarding the impact on traffic at 6:00 AM on Fridays. Commissioner Jennings asked if anyone from the school system had been contacted regarding the impact to school bus traffic. Mr. Harris replied that neither the NCDOT nor the school system had been contacted.

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

Public Comment

Lisa Sowards, representing Harvest Time Revivals, Inc. and World Mission Outreach, stated that Mr. Watts would be donating 50% of proceeds to aid in their mission and getting their facility ready for operation. Once opened, services will be offered to the community such as a food bank and clothing ministry as well as international services. She noted that there would be no permanent structures set up and that it would be similar to a church yard sale.

James Watts, applicant, reiterated that gates would open for vendors at 6:00 AM and for customers at 8:00 PM and would close at 4:00 PM. Vendors will not be allowed to leave items overnight on Fridays. He didn't feel that traffic would be an issue considering the location and lack of school aged children in the immediate area. Mr. Watts also pointed out that tractor trailers were frequent when Clayton Marcus was open which would not occur with the operation of a flea market.

Renee Whitson, owner of Sea Worthy Seating in Bethlehem, felt the flea market was a way to bring people and money into the community which was desperately needed, stating that many of the stores and businesses had suffered since the closing of Clayton Marcus. She understood the Board's concern with school traffic and suggested prohibiting customers from entering the flea market until after school started.

Bud Caywood stated that he was very active in the community and county, serving as Publicity Chairman for Bethlehem Community Development Association, President of the Bethlehem Branch Friends of the Library and member of both the Planning & Zoning Commission and Bethlehem Ruritan Club. He felt that there was no economic value associated with an outdoor flea market, noting that Bethlehem needed legitimate businesses that generated sales tax revenue, had store front images that enhanced the community, supported cultural activities and school programs, and kept our citizens spending money in and for the community.

Scott Keller presented a petition in opposition to the flea market signed by several neighbors and industries in the community. He noted that when Clayton Marcus was open, they maintained the grounds, operated on a regular schedule and was closed on weekends, and conducted business indoors. He expressed the following concerns with a flea market operation: hours of operation conflicting with weekend activities, potential odor issues especially if livestock is sold, safety concerns with traffic interfering with school, church, and other programs, and affect on surrounding property values. Mr. Keller felt that Mr. Watts had already demonstrated lack of faith to the community by posting a sign advertising the flea market prior to following proper County procedures. Other information provided by Mr. Keller included news articles related to the sale of stolen and counterfeit merchandise found at flea markets in North Carolina.

At this time, Mr. Harris informed the Board that NC General Statutes read that counties cannot consider petitions for a conditional use. Only towns and cities are given that option. The Board may review the petition but cannot base its decision on its contents.

Richard Dickey questioned the financial value of the flea market to the community in regard to taxes or permit fees as well as Harvest Time Revivals' plan for other buildings, the impact traffic will have on the school and fire department, the attractiveness of an opaque barrier to adjacent property owners, condition of the overflow parking area during and after rain showers (mud), and trash blowing into neighbors yards.

Terry Hollar was concerned with added cost to the County through the use of deputies to patrol the area when the number of vendors and customers increased as well as the mud issue from the overflow parking area. He also inquired about whether a livestock auction would be held and if liability insurance would be purchased in the event someone was injured on the property.

Steve Teague asked the Board to consider how they would feel if this type of establishment was proposed next to their home.

Connie Killian advised that the Bethlehem Community Development Association, of which she served as Chairperson, was opposed to the flea market. She pointed out that the Association's bylaws stated that they were to "promote the civic pride and general appearance of the community" and they therefore did not feel that a flea market would be a good addition for the community. She was concerned with traffic if the gate to the overflow parking area was opened, noting that Bethlehem Park Lane was already extremely congested on Saturdays due to ball games and events at the community building.

Beverly Teague, who owns the legal offices near the proposed site, mentioned that the 127 / Teague Town Road intersection was dangerous enough without the added traffic from the flea market. She also stated that now that a private property sign had been placed on the site, it was possible that it was no longer deemed as a public vehicular area, meaning that it could not be policed by the Sheriff's Department. Therefore, she asked who was going to be in charge of security for the property. Ms. Teague was also

concerned with the port-a-johns and run off from rain that would cause trash to collect on the fence or pass through onto other properties.

James Watts came forward again to answer a few questions raised by the public. He stated that the port-a-johns would be placed at the back of the property away from the highway and cleaned out every week. He admitted to placing the sign on the property but noted that he took it down once he was informed that he had not followed County policy. He did plan to allow the sale of caged chickens but agreed to prohibit that if necessary and he planned to post signs stating “not responsible for accidents or lost/stolen property” to cover any liability issues. Mr. Watts stated that the \$50 fee per vendor for permits would benefit the County as well as the hiring of two part-time employees.

Mr. Harris informed the Board that livestock sales was not a part of the original proposal and was not allowed in the L-I zoning district.

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

Commissioner Yoder made a motion to deny Conditional Use Permit 11-5 for the following public safety reasons:

1. The location of Bethlehem Elementary School.
2. The hours of operation proposed.
3. Inadequate number of port-a-johns.
4. Improper parking.
5. Improper access to Bethlehem Park Lane.
6. Improper security.

Commissioner Jennings seconded the motion noting that the traffic would “adversely affect the safety of persons residing or working in the neighborhood of the proposed use.”

Chairman Robertson agreed that traffic was one of his concerns as well as the fact that no one had consulted with the NCDOT or school system on the issue.

Commissioner Yoder added that Bethlehem Elementary School was the second largest school in the county generating a tremendous amount of traffic in addition to Bethlehem Baptist Church and the youth programs which also generated more traffic. He felt adding more traffic would negatively affect the community, including emergency traffic from the fire department, and that a sanitary sewer system was needed for that many people.

The Board voted unanimously in favor of the motion.

REPORT ON STATE BUDGET CUTS, 2010-2011 AYP, & 2011-2012 PERSONNEL & GOALS FOR THE SCHOOL SYSTEM

Jack Hoke, Superintendent, began with an Adequate Yearly Progress comparison of surrounding counties, noting that Alexander County was at 50%. Legislators cut K-12 education budgets by 5.79%; however, that cut totaled 9.63% in Alexander County when adding in the discretionary funding for a total of \$1,595,188. Other cuts included:

- Assistant principals – 18.8% reduction statewide, resulted in loss of one assistant principal, Bethlehem and Hiddenite Elementary now sharing a position.
- Instructional support – 5% reduction, changed from one position per 200 ADM to one per 210 or loss of two positions locally.
- Instructional supplies – 46% reduction or \$165,000 locally.
- Textbooks - \$92 million cut or \$354,596 locally.
- Transportation – 2.5% reduction or \$28,675 locally.
- Clerical / Custodial – 15% reduction or \$217,381 locally.
- Addition of 5 instruction days – waiver received for this year but must be implemented in 2012-2013 school year.

Due to retirements, no teaching positions were eliminated and 19 certified persons were hired, 10 of which are Alexander County residents. There were also 16 non-certified persons hired, 12 of which were county residents.

Mr. Hoke explained that the Board of Education's goals were to improve the graduation rate at ACHS, currently at 77.178%, to improve reading proficiency for K-12, and to increase the number of schools that meet AYP.

RESOLUTION ADOPTING A POLICY FOR MUTUAL ASSISTANCE WITH OTHER LAW ENFORCEMENT AGENCIES

Sheriff Chris Bowman presented a resolution adopting a policy for mutual assistance with other law enforcement agencies, explaining that approval was needed in order to provide assistance to other counties if needed. This issue came about after a request for assistance from the coast due to Hurricane Irene. The Sheriff's Association attorney informed all agencies that a resolution adopting a policy for mutual assistance was needed as well as an agreement between the agency requesting assistance and the agencies who respond. He reported that once the resolution was approved, mutual aid agreements would be drafted with all surrounding counties.

He felt sure the Board had approved a similar resolution in the past; however, it could not be located by Sheriff's Department or County Administrative staff.

After discussion, Chairman Robertson made a motion to approve the resolution with a provision that the Sheriff will talk to neighboring counties to determine if a clause needed to be added to the resolution stating that the Sheriff of each agency providing assistance could recall officers if needed in home municipality. Commissioner Moose seconded the motion. The Board voted unanimously in favor of the motion.

DUKE ENERGY COMMUNITY RELATIONS REPORT

Robin Nicholson, Duke Energy Government & Community Relations Manager, informed the Board that Duke Energy was making long term plans to retire and replace aging plants, meet environmental regulations, and support and grow healthy communities. Plans are to retire 38 units by the end of 2015.

On July 1, 2011, Duke Energy Carolinas filed a request with the NC Utilities Commission to increase electric rate by approximately 15%. Of this request, $\frac{3}{4}$ or \$4.8 billion is driven by capital investments made in the Carolinas electric system over the past two years as well as lower than expected electric sales due to the recession, changes in financing, and other costs. Aside from the annual fuel cost adjustments, this is only the second rate increase requested since 1991. She stated that if the rate increase was approved, the NC rates would remain competitive in the South Atlantic region and well below the national average.

Ms. Nicholson also discussed the request to the NC Utilities Commission for the merger of Duke Energy and Progress Energy. If approved, this will result in the largest energy provider in the United States with over 7 million customers. An agreement has been reached between Duke Energy, Progress Energy, and the NC public staff to provide a contribution of \$15 million over the next 4 years to Workforce Development programs and low income energy assistance in addition to the current annual \$16.5 million contribution to community and charitable organizations in the state. She also mentioned that Alexander County now received energy from a one megawatt solar farm that generated enough energy to power 150 average size homes.

Commissioner Jennings asked how the merger with Duke Energy and Progress Energy would affect jobs. Ms. Nicholson replied that both organizations would be offering voluntary separation packages to employees. Further action will be taken based on how many employees take advantages of those packages. She also mentioned that several jobs in the Raleigh area would be eliminated and/or transferred to the Charlotte region; however, she did not foresee any major job reduction in this area.

REPORT ON BIDS FOR ROCKY FACE PARK

David Icenhour, Economic Development Director, reported that bids for the Rocky Face Park Project were opened on August 30, 2011. A total of 5 bids were received from CSC Construction Company, Moss-Marlow Building Company, Eagle Wood, Inc., MBI Builders, and Buchanan and Sons, Inc.

The low bid was submitted by CSC Construction Company with a quarry area construction bid of \$355,072 and trail construction bid of \$58,743 for a total bid of \$413,815. In addition, Mr. Icenhour requested the Board's approval of an estimated \$6,000 be added to the bid for safety railing. Adding the railing costs as well as \$56,390 for engineering and surveying equals a total PARTF expenses total of \$476,205. He pointed out that this bid was the only one that kept the County within the PARTF budget which was \$477,776

Mike Norris, McGill Associates, stated that he has spoken with the contractor for CSC Construction who was comfortable with his bid and ready to proceed. He noted that CSC Construction had completed several government and park type facilities including the County's DSS addition and Lake James State Park.

Commissioner Yoder made a motion to approve the bid submitted by CSC Construction Company for \$413,815 as well as the estimated \$6,000 for safety railing. Commissioner Jennings seconded the motion. The Board voted unanimously in favor of the motion.

BUDGET ORDINANCE AMENDMENTS #8 & #9

Rick French, County Manager, discussed the purpose of Budget Amendments #8 - #9 as follows:

Budget Amendment #8 – To increase the JCPC budget for a new state grant to provide services to Alexander County youth. To increase the DSS budget for a 90-day allocation from the Smoky Mountain Center for mental health services. To increase the Library budget for a donation from the Friends of the Library for repair/upgrade of a security system. To increase the Veterans Service budget for vacation payout and a new hire due to retirement of the Veterans Service Officer.

Budget Amendment #9 – To budget for construction of water lines along Corner Store Road and Sipe Road.

Commissioner Yoder made a motion to approve Budget Amendments #8 & #9. Commissioner Jennings 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 contact person for water taps on Church Road is Jacob Reid, Public Utilities Engineer, for the City of Hickory.
- B. The Hiddenite Festival Road Race is scheduled in conjunction with the Hiddenite Celebration of the Arts on September 24, 2011.

- C. County staff submitted the request to the NC 911 Board for the purchase and installation of 15 MDT's. Revenue for this request will come from the County 911 fund balance as approved by recent legislation. A response from the 911 Board is expected in the next few weeks.

CONSENT AGENDA

- A. Minutes from the August 15, 2011 Regular Commissioners' Meeting.
B. Tax Release Request for August \$3,581.97 and Tax Refunds for August \$1,757.36.

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

CLOSED SESSION – N.C.G.S. 143-318.11(a)(6) PERSONNEL

Chairman Robertson made a motion to enter into Closed Session at 8:39 PM to discuss personnel issues pursuant to N.C.G.S. 143-318.11(a)(6). Commissioner Yoder seconded the motion. The Board voted unanimously in favor of the motion.

ADJOURNMENT

There being no further business, Commissioner Yoder made a motion to adjourn at 9:10 PM. Commissioner Moose seconded the motion. The Board voted unanimously in favor of the motion.

W. Darrell Robertson, Chairman

Jamie M. Starnes, Clerk to the Board