

Draft

BOARD OF COMMISSIONERS
REGULAR MEETING December 3, 2007

ALEXANDER COUNTY
STATE OF NORTH CAROLINA

PRESENT: W. Darrell Robertson, Chairman
 Wes Bolick, Vice-Chairman
 William L. Hammer
 Harold M. Odom
 Larry G. Yoder

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, December 3, 2007 in the Catawba Valley Community College / Alexander Center Multipurpose Room, Taylorsville, North Carolina.

CALL TO ORDER

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

INVOCATION & PLEDGE OF ALLEGIANCE

Rev. Neal Walker, Oxford Memorial Baptist Church, gave the invocation and Ben Rogers, student at Ellendale Elementary School, led the Pledge of Allegiance to the Flag.

COMMISSIONER'S REPORT

Commissioner Bolick conveyed his appreciation for the large turnout of citizens at the meeting held in Bethlehem on November 26, 2007. He stated that he was glad to see the community take an interest in the proposed annexation request.

Chairman Robertson congratulated the Chamber of Commerce on a successful parade, which was held on Saturday, December 1, 2007.

ADOPTION OF AGENDA

Chairman Robertson requested the addition of Budget Amendment #21 to be considered with other budget amendments during Agenda Item #10.

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

PUBLIC HEARING: REZONING CASE 07-10 – BRIAN ELLIOT

Sylvia Turnmire, Director of Planning & Development, presented Rezoning Case 07-10 submitted by Brian Elliot. The applicant requested rezoning of property located on Highway 127 from RA-20 (Residential-Agricultural) to H-C (Highway Commercial) to allow for landscaping service and supplies retail sales. The size of the property is 7.74 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, south, east, and west. Land uses within 100 feet of the property include single-family site-built residential to the north, south, east, and west as well as some vacant property to the north.

Ms. Turnmire stated that the subject property was obtained by the property owner in 2007. She explained that the applicant currently owned an existing landscaping business in another county and wished to relocate the business to this particular property. She pointed out that the property would be served by public water and a private well system and she noted that, if approved, all current landscaping and parking requirements would apply.

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 7.74 acres. The sizes of surrounding properties are:

- West – .599 acre, .359 acre, 3.50 acres
- North – 12.56 acres, 2.05 acres, and .43 acre
- South – 5.05 acres, 1.86 acres, and 1.796 acres
- East – 3.33 acres

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

1. Section 154.170 of the Alexander County Zoning Ordinance states that the H-C Highway Commercial 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.
2. Section 154.140 of the Alexander County Zoning Ordinance states that the RA-20 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.
3. The 1993 Land Development Plan shows this property as being in an “Urban Transition Area” which has the purpose of providing for future intensive urban development on lands that are suitable and that will be provided with the necessary urban services to support intense urban development. Areas meeting the intent of Urban Transition classification are presently being developed for urban purposes or will be developed in the next five to ten years to accommodate anticipated urban growth.
4. The 1995 Thoroughfare Plan mentions that the widening of NC Highway 127 from the Catawba County line to US Highway 64/90 is an “identified future need.” However, this project is currently unfunded. The closest NCDOT 2006 average annual daily traffic count for this section of Highway 127 was 5,600 trips per day.

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.

There is no commercially zoned property adjacent to the subject property; however, there is commercially zoned property within 1,000 feet and industrially zoned property within 500 feet.

Common uses allowed in the H-C District include but are not limited to sales of lawn and garden supplies, hardware stores, and other retail uses. All of the uses allowed in the H-C District should be considered, not only the one for which the applicant is applying.

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 in opposition to the request along with two calls for information and one call in favor of the request. Two individuals spoke in favor of the request at the Planning & Zoning Commission Meeting as well as four in opposition.

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

1. The proximity of H-C and L-I zoning districts.
2. The property lies in an Urban Transition Area as defined by the 1993 Land Development Plan.

She also stated out that the Planning & Zoning Commission held a public hearing on November 1, 2007 to consider the request. She explained that a motion was made and seconded to recommend approval of the rezoning request but the motion failed due to a tied vote of 2-2 (Fritz and Reese for, Walker and Harrington against). Following additional discussion, the board was unable to reach a majority vote.

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(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 legitimate factors for differential zoning treatment of the property involved.

At this time, Ms. Turnmire informed the Board that Mr. Elliot provided a revised plat to Seth Harris at the Planning Office this afternoon which divided the property into a 5 acre tract and 2.7 acre tract. She explained that Mr. Elliot now wished to retain the 2.7 acre tract near the rear of the property as RA-20 for a future home and only rezone the 5 acre tract as H-C for his business.

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

Public Comment

Brian Elliot, applicant, presented the Board with additional information relating to his revised request including proposed locations for buildings and landscaping supplies on

the property as well as the driveway from Highway 127. He noted that NCDOT permits had been applied for and that a sight distance of 450 feet would be required in both directions. Mr. Elliot addressed the spot zoning issue by stating that there were several other commercially and industrial-zoned properties in the area including a service station, Hancock & Moore, and Clayton Marcus. He also pointed out eight other properties in the county that were zoned and/or operated as commercial in residential areas including Taylorsville Beach Seafood, Richey Automotive, Foothills RV Repair, Little River Animal Hospital, H & H Arena, Harold's Carpet, Gilbert Lackey's Garage, and The Chopp Shop. Mr. Elliot commented on concerns from neighbors about mold problems from the mulch, noting that a nursery was located only two properties below him where mulch was used on a regular basis with no harm to neighbors.

Connie Killian, owner of the nearby nursery, stated that she used mulch for potting plants only and that it was used within two or three months from purchase. She discussed concerns with increased traffic in the area, stating that congestion was already a problem. She mentioned that there was not 450 of sight distance to the north of Mr. Elliot's property and that a deceleration lane would be needed. Ms. Killian felt that approving this rezoning request would open the door for others in the area to pursue commercial zoning and she also noted that any H-C use would be allowed on this property in the future if the landscaping business ceased operation.

Dwight Isenhour said that he chaired the original Bethlehem Planning Board when zoning in the Bethlehem area was enforced and he noted that it was that board's intent to stop all commercial zoning at Telephone Exchange Road. He felt that spot zoning would destroy the integrity of the neighborhood and would eventually cause residents to move away.

Billy Teague stated that he lived across the street from the subject property. He pointed out that he was allergic to mold that could be created from the mulch. He also noted that he hoped to leave his home, which had been in his family for four generations, to his children.

Michael Kraft informed the Board that there was currently a pile of dirt in a dry creek bed that ran through Mr. Elliot's property that could prevent the creek from flowing. He stated that his wife was allergic to mold and that he had a small child that could be affected by increased traffic and large trucks. Mr. Kraft voiced concerns that this property, if rezoned H-C, could be converted into another use in the future which would cause neighbors to move from the area.

Jerry Palmer stated that he was in favor of the rezoning because he knew Mr. Elliot would do a good job and not create something that would be an eyesore to the community. He also pointed out that he was allergic to many things but felt the mulch would be far enough to the rear of the property where it would not affect anyone.

Dennis Ashley was also in favor of the rezoning. He stated that Highway 127 was a main road and raised the question where businesses and commercial properties should be

located if not on main roads. He pointed out that main roads were where these types of establishments should be located to allow for growth.

Mark Austin stated that he knew Mr. Elliot would not have submitted the request if he thought his business would harm anybody. He clarified that there was not a dirt pile in the creek bed and noted that mulch would not create mold unless it was not turned or stirred.

Mr. Elliot explained that he had placed a catch basin in the creek bed to catch sediment and that the creek would continue as always once it filled back up.

Commissioner Bolick asked where the mulch and brick chip piles would be located and if they would be concealed from the road. Mr. Elliot replied that the mulch and brick chip piles would be placed near the rear of the rezoned property. He also stated that he would adhere to the 25 foot buffer enforced for commercial zoning and noted that the front of the property would be fenced and landscaped.

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

Commissioner Bolick stated that he needed more information relating to the health concerns mentioned before he could make an informed decision, including any regulations from the NC EPA and a doctor's note from Mr. Teague regarding how mold affected his allergies.

Commissioner Odom also did not feel he could make a decision tonight on this rezoning since the plans had been changed from the original application.

Chairman Robertson agreed that the Board was not in a position to approve or deny the request at this time and suggested the application be resubmitted to reflect the changes presented tonight. He also suggested that the NCDOT permits be secured and any information related to a possible deceleration lane be obtained. Chairman Robertson also stated that two of the 8 properties pointed out by Mr. Elliot were in operation before countywide zoning took affect and were therefore grandfathered in. He felt that the County Attorney needed to review these properties as well as the current request to determine the significance of this spot zoning issue.

Commissioner Yoder made a motion to table consideration of Rezoning Case 07-10 until the February 11, 2008 Commissioners' Meeting to allow time for all requested information to be obtained and for the County Attorney's review. Commissioner Odom seconded the motion. The Board voted unanimously in favor of the motion.

PUBLIC HEARING: FLOOD DAMAGE PREVENTION ORDINANCE & MAPS

Sylvia Turnmire, Director of Planning & Development, presented the revised Flood Damage Prevention Ordinance and new Flood Insurance Rate Maps reviewed by the Board at a work

session on October 22, 2007. She explained that participation in the National Flood Insurance Program was contingent upon adoption of the new ordinance and maps, which FEMA was requiring prior to December 18, 2007. She pointed out that, without local government adoption, homeowners would be unable to obtain flood insurance coverage.

She informed the Board that the Planning & Zoning Commission held a special called meeting on November 27, 2007 to review the maps and proposed ordinance. After a public hearing, the board unanimously recommended approval of both the ordinance and the maps with the following local option recommendations:

1. Delete the option of "Freeboard" (requiring a higher elevation than the state requirement of the base flood elevation) as it would cause undue hardship on property owners with smaller waterfront lots.
2. Retain the coverage option in the "Substantial Damage" definition in order to provide additional coverage for two flood events within 10 years.
3. Retain the requirement for a plot plan to be drawn by a registered land surveyor or professional engineer based upon the state's interpretation of liability.
4. Delete the sections referring to solid waste facilities as they should be prohibited from special flood hazard areas.

Ms. Turnmire reviewed several sections of interest within the proposed ordinance with the Board relating to solid waste disposal facilities and sites. She also stated that, once adopted, the new ordinance would completely replace the current ordinance which was generated from data from 1978.

After review, Commissioner Yoder suggested that notation needed to be provided on deeds when property located in a flood plain was surveyed and transferred. The Board agreed.

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

Commissioner Yoder made a motion to approve the proposed Flood Damage Prevention Ordinance and Flood Insurance Rate Maps to include his recommendation regarding deed notation for flood plain properties. Commissioner Bolick seconded the motion. The Board voted unanimously in favor of the motion.

2006-2007 AUDIT PRESENTATION

Rick French, County Manager, and Jennifer Herman, Finance Director, presented a slide show presentation for the 2006-2007 Audit Summary, which was as follows:

Audit Results

- Unqualified opinion
- Unreserved fund balance \$2,267,968
- Decrease in fund balance \$606,962
- Unreserved fund balance is 7.96% of general fund expenditures

Fund Balance History

- \$4,558,214 in 2004
- \$5,031,746 in 2005
- \$5,302,305 in 2006
- \$4,695,343 in 2007

Property Valuation History (in thousands)

- \$1,995,114 in 2004
- \$2,035,168 in 2005
- \$2,064,963 in 2006
- \$2,112,265 in 2007

Property Valuation Growth vs. Inflation

- - 0.01% growth vs. 2.70% inflation in 2004
- 2.00% growth vs. 4.10% inflation in 2005
- 1.50% growth vs. 3.30% inflation in 2006
- 2.30% growth vs. 2.30% inflation in 2007

Comparative Averages for NC Counties with Population of 25,000 to 49,999

	<u>Alexander County</u>	<u>Average</u>
Available General Fund Fund Balance	\$2,267,968	\$10,345,081*
Property tax rate	0.510	0.5209*
Collection percentage	96.35%	96.09%*
Excluding motor vehicles	97.30%	97.24%*
Motor vehicles (MV)	89.61%	85.01%*

* Reference: LGC memo #1073 (6/30/06 averages)

Note: Alexander's figures are as of 6/30/07

Available Fund Balance as % of GF Expenditures of Population Group Average

- 10.83% compared to 26.21% in 2004
- 11.65% compared to 27.62% in 2005
- 10.90% compared to 27.35% in 2006
- 7.96% in 2007

General Fund Revenues

- Ad Valorem Taxes – 41%
- Local Option Sales Tax – 27%

- Restricted Intergovernmental – 17%
- Sales and Services – 11%
- Permits and Fees – 2%
- Interest – 1%
- Other – 2%

General Fund Revenues (after State's "Sales Tax Swap")

- Ad Valorem Taxes – 46%
- Local Option Sales Tax – 18%
- Restricted Intergovernmental – 19%
- Sales and Services – 13%
- Permits, Fees, & Misc. Revenue – 2%
- Interest – 1%
- Other – 1%

General fund Revenues 2006 & 2007

- Ad Valorem Taxes - \$10,680,833 in 2006 and \$10,865,386 in 2007
- Local Option Sales Tax - \$6,715,072 in 2006 and \$7,328,538 in 2007
- Other Intergovernmental - \$4,930,151 in 2006 and \$4,539,927 in 2007
- Sales and Services - \$2,856,272 in 2006 and \$3,072,654 in 2007
- Permits, Fees, & Misc. Revenue - \$655,861 in 2006 and \$567,052 in 2007
- Investment Earnings - \$189,399 in 2006 and \$225,855 in 2007
- Other Taxes and Licenses - \$145,946 in 2006 and \$123,176 in 2007

General Fund Expenditures

- Human Services – 38%
- Education – 19%
- Public Safety – 18%
- General Government – 12%
- Debt Service – 7%
- Cultural & Recreation – 3%
- Economic & Physical Development – 2%
- Environmental Protection – 1%

General Fund Expenditures 2006 & 2007

- Human Services - \$9,593,106 in 2006 and \$10,260,016 in 2007
- Education - \$5,094,679 in 2006 and \$5,130,442 in 2007
- Public Safety - \$4,508,072 in 2006 and \$4,694,142 in 2007
- General Government - \$3,268,382 in 2006 and \$3,316,063 in 2007
- Debt Service - \$1,867,039 in 2006 and \$1,891,868
- Cultural & Recreation - \$571,739 in 2006 and \$760,541 in 2007
- Economic & Physical Development
- Environmental Protection - \$502,976 in 2006 and \$677,669 in 2007

Outstanding General Fund Debt vs. Legal Debt Limit

- \$16,133,062 outstanding vs. \$159,609,142 debt limit in 2004
- \$15,160,656 outstanding vs. \$162,813,431 debt limit in 2005
- \$14,453,686 outstanding vs. \$165,197,010 debt limit in 2006
- \$13,141,697 outstanding vs. \$168,981,163 debt limit in 2007

Enterprise Funds Net Income

- Solid Waste - \$12,832
- Water System - \$183,316

Commissioner Bolick made a motion to accept the 2006-2007 Audit Summary as presented. Commissioner Hammer seconded the motion. The Board voted unanimously in favor of the motion.

HIDDENITE INDUSTRIAL WATER & SEWER PROJECT UPDATE

Gene Hayes, HSMM Project Engineer, gave an update on the Hiddenite Industrial Water & Sewer Project, which will provide fire protection water to Craftmaster Furniture, sewer services to Craftmaster and Paladin Industries in Hiddenite, and the potential for access to sewer for the Hiddenite Fire Department, Hiddenite Elementary School, and several other businesses in the immediate area. To satisfy the requirements of the grant funding, Craftmaster and Paladin have pledged to create approximately 80 new jobs.

Mr. Haynes presented a map of the planned line locations and stated that the project would be put out to bid in January 2008. He discussed some specifics about the project including locations for the force main to tie into the Town of Taylorsville's system. Mr. Haynes stated that the total project budget was approximately \$330,000 but noted that grant funding had been appropriated.

Chairman Robertson suggested that Hiddenite Elementary School be contacted to determine if they would like to tie into the system, which could be done as an alternate bid.

COOPERATIVE EXTENSION WATER CONSERVATION PROGRAMS

Lenny Rogers, Cooperative Extension Director, informed the Board that the Cooperative Extension Office was offering educational programs on "Water Conservation All Around the House," to include tips on conserving water around the home in the bathroom and kitchen.

He pointed out that Duke Energy would declare a Stage 4 drought unless the area received a considerable amount of rainfall. He stated that information regarding the programs had been advertised in the newspaper and on the local radio station as well as provided to students in the county schools.

Mr. Rogers also mentioned that Cooperative Extension staff would be available to speak to clubs and other organizations about water conservation.

PUBLIC COMMENT PERIOD

No one was present to speak during the Public Comment Period.

ELECTION OF CHAIRMAN

Chairman Robertson called for nominations for chairman. Commissioner Hammer nominated Commissioner Yoder to serve as chairman for 2008.

There being no further nominations, Commissioner Bolick made a motion to close the nominations for chairman. Commissioner Hammer seconded the motion. The Board voted unanimously in favor of the motion.

Commissioner Hammer made a motion to approve the election of Commissioner Yoder as chairman beginning the first meeting in January 2008. Commissioner Bolick seconded the motion. The Board voted unanimously in favor of the motion.

ELECTION OF VICE-CHAIRMAN

Chairman Robertson called for nominations for vice-chairman. Commissioner Yoder nominated Commissioner Hammer to serve as vice-chairman for 2008.

There being no further nominations, Commissioner Bolick made a motion to close the nominations for chairman. Commissioner Odom seconded the motion. The Board voted unanimously in favor of the motion.

Commissioner Yoder made a motion to approve the election of Commissioner Hammer as vice-chairman beginning the first meeting in January 2008. Commissioner Bolick seconded the motion. The Board voted unanimously in favor of the motion.

RESOLUTION AUTHORIZING NC RURAL CENTER SUPPLEMENTAL WATER FUND GRANT APPLICATION

Rick French, County Manager, presented several documents in conjunctions with the Northeast Water Project including a resolution authorizing the application of NC Rural Center Supplemental Water Grant funds, a resolution awarding the bid for the Northeastern Water Project, and a conflict of interest statement.

He informed the Board that the lowest responsible bidder was Wilkie Construction at a bid of \$2,441,037.85. He explained that this was well below the project budget of \$3,600,645 which could allow additional lines to be extended in the area.

Commissioner Bolick made a motion to approve the documents provided by Mr. French to include the resolution authorizing the grant application, the resolution awarding the bid subject to loan and project approval by the NCDENR and grant announcement from the Rural Center, and the conflict of interest statement. Commissioner Odom seconded the motion. The Board voted unanimously in favor of the motion.

BUDGET ORDINANCE AMENDMENTS #19 - #21

Rick French, County Manager, discussed the purpose of Budget Amendments #19 - #21, which included the following information:

Budget Amendment #19 – To increase appropriations to the Economic Development Corporation for and additional contribution of \$5,000 to the Chamber of Commerce.

Budget Amendment #20 – To increase the Capital Improvements Fund budget for the school system's use of Public School Building Capital Fund grant monies and estimated state lottery proceeds.

Budget Amendment #21 – To increase the Senior Center budget for the Senior Health Insurance Information Program (SHIIP) funds and Community Foundation of Burke Endowment funds.

Commissioner Hammer made a motion to approve Budget Amendments #19 - #21. Commissioner Odom seconded the motion. The Board voted unanimously in favor of the motion.

BOARD APPOINTMENTS & REAPPOINTMENTS

Commissioner Hammer presented the following appointments and reappointments to County boards and committees:

A. PARKS & RECREATION ADVISORY BOARD

Appoint Janie Sharpe to replace Donna Fincannon

B. INDUSTRIAL FACILITIES & POLLUTION CONTROL FINANCING AUTHORITY

Reappoint Andrew Jackson 2-year terms
Reappoint Robert Feimster
Reappoint Paul Barkley
Reappoint Mark Odom
Reappoint Gene Frye

Reappoint Randy Street
Reappoint Wesley Fox

Commissioner Hammer made a motion to approve the appointments and reappointments as presented. Commissioner Yoder 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 Annual County Employees Appreciation Luncheon is scheduled for Friday, December 7, 2007 at the CVCC / Alexander Center. The first seating is at 11:30 AM and the second is at 12:30 PM.
- B. Mr. French attended a workshop in Asheville on October 10, 2007 sponsored by the Rural Center called *Rural Water and Wastewater Projects: Getting to Success with Your Consulting Engineer*. The panel consisted of many experienced participants including Canton Mayor Patrick Smathers, Caldwell County Manager Jack Horton, Joel Storrow from McGill Associates, Julie Haigler Cubeta from the NC Rural Center, and Sid Harrell from NCDENR Public Water Supply Section. Yolanda Burwell from the NC Rural Center discussed ideas for a "first aid kit" for imperfect moments and conflict resolution. Other issues discussed or reviewed included financial planning assistance and capital infrastructure funding programs. Mr. French stated that the overall workshop was very informative and timely with our upcoming water project.
- C. Ed Clifford from California has been hired as the Regional Transit Director. He will begin on January 7, 2008.

CONSENT AGENDA

- A. Minutes from the November 19, 2007 Regular Commissioners' Meeting.
- B. Tax Release Requests for November \$3,036.08 and Tax Refund Requests for November \$18,577.51.
- C. Longevity Policy Update.
- D. Pay Plan Update.

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

ADJOURNMENT

There being no further business for the regular meeting, Commissioner Hammer made a motion to adjourn at 7:55 PM and reconvene in a work session. Commissioner Yoder seconded the motion. The Board voted unanimously in favor of the motion.

W. Darrell Robertson, Chairman

Jamie M. Starnes, Clerk to the Board

Draft

BOARD OF COMMISSIONERS
WORK SESSION December 3, 2007

ALEXANDER COUNTY
STATE OF NORTH CAROLINA

PRESENT: W. Darrell Robertson, Chairman
Wes Bolick, Vice-Chairman
William L. Hammer
Harold M. Odom
Larry G. Yoder

STAFF: Rick French, County Manager
Jamie Starnes, Clerk to the Board
Ray Warren, NC House Representative

The Alexander County Board of Commissioners held a work session following adjournment of the regular meeting.

CALL TO ORDER

Chairman Robertson called the work session to order at 8:10 PM.

OHV PARKS RULES & REGULATIONS DISCUSSION

Richard Mull, Brushy Mountain Motor Sports Owner/Operator, was present with his attorney, Don Fuller, to discuss a possible change in legislation governing Off-Highway Vehicle (OHV) Parks.

Mr. Fuller stated that Mr. Mull had operated an OHV park located on Lambert Fork Road consisting of 60 miles of trails for approximately 5 years. He pointed out that Mr. Mull wanted to expand his trails to compete with a growing interest and market demand; however, he noted that current NC Department of Environmental and Natural Resources rules and regulations prohibited him from further developing his property and creating new trails without considerable cost. He explained that the state Sedimentation and Pollution Control Act of 1973 regulated land disturbing activities of one acre or more with exceptions allow only for agriculture activities, permeated mining, and forestry.

Mr. Mull informed the Board that OHV parks were listed under the same erosion control regulations as highway projects. He also explained that a staff member from the NC Department of Environmental & Natural Resources has began working on some new regulations for these parks but that once he retired, his project was discarded and no further progress had been made.

Mr. Mull pointed out that only .0419% of his total land would be disturbed to undertake his expansion. He stated that his trails were the safest around, all being continuously marked, which reduced the risk for accidents and injuries, as well as environmentally friendly. He also mentioned that, under the current state regulations, he could cut all the timber off his land but could not cut environmentally friendly OHV trails. Mr. Mull felt that he contributed to the county by bringing in visitors who spent tax dollars here. He pointed out that NC had the 2nd largest ATV ownership in the country.

Mr. Fuller stated that he and Mr. Mull hoped that the Board could help them by adopting a statement of support of Mr. Mull's efforts in hopes that the General Assembly could develop a solution to allow him to continue such as new regulations that contained reasonable erosion and sedimentation control requirements for OHV parks.

Several options were discussed including a local bill and a change in legislation statewide. Representative Ray Warren was present and stated that he would have to meet with his research committee to determine if a local bill could be done and/or if there would be support in the General Assembly for a legislation change.

The Board agreed that information would be needed from Representative Ray Warren before any further action could be taken.

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

Commissioner Hammer made a motion to enter into Closed Session at 8:50 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 Odom 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 9:05 PM. Commissioner Bolick seconded the motion. The Board voted unanimously in favor of the motion.

W. Darrell Robertson, Chairman

Jamie M. Starnes, Clerk to the Board