

Draft

BOARD OF COMMISSIONERS
REGULAR MEETING February 25, 2008

ALEXANDER COUNTY
STATE OF NORTH CAROLINA

PRESENT: Larry G. Yoder, Chairman
 William L. Hammer, 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 25, 2008 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 ANNOUNCEMENTS*****

The following were recognized:

Industry Announcement

David Icenhour, Economic Development Director, informed the Board that the Jasper Group would be locating their library furniture division in the old Kincaid building on 5th Avenue. He stated that the Jasper Group, whose headquarters was in Indiana, would create approximately 40 new jobs. Alexander County applied for and received an \$81,000 grant from the NC Rural Center to assist the Jasper Group with renovations of the facility. Mr. Icenhour thanked Representative Ray Warren and Senator Steve Goss for their assistance with the grant.

Brian Lish, Vice President, provided information related to the history and production of the Jasper Group, formerly known as Jasper Seating Company, Inc. He also mentioned that staff hoped to begin operations on June 1, 2008.

Members of the Board welcomed the Jasper Group and thanked Mr. Icenhour for his assistance.

Rural Center Grant

Rick French, County Manager, reported that Alexander County had received a \$500,000 grant from the NC Rural Center that would allow 4 additional miles water lines to be installed in conjunction with the Northeast Water Project. He also thanked Representative Ray Warren and Senator Steve Goss for their support and assistance in getting the grant funding approved.

COMMISSIONER'S REPORT

Commissioner Robertson requested prayer for the family of Ray Lackey, former Alexander County Register of Deeds, House member, and Senate member, who passed away on Saturday, February 23, 2008.

Commissioner Hammer announced the February 16-23, 2008 was National FFA Week, pointing out the many students that participated in the FFA Club.

Commissioner Hammer also mentioned a recent article in the Charlotte Observer that discussed mental health services in the area.

ADOPTION OF AGENDA

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

PUBLIC HEARING: PURCHASE & FINANCING OF REAL PROPERTY FOR ECONOMIC DEVELOPMENT

David Icenhour, Economic Development Director, discussed a proposal to purchase 25.613 acres of property located in the Alexander Industrial Park from Alexander County Railroad Company for economic development purposes to include the recruitment of industry and jobs. He explained that the purchase price of the property was \$500,000, of which \$250,000 would be paid to Alexander Railroad at closing. The remaining \$250,000 plus 3% interest will be paid to Alexander Railroad one year from the closing date.

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

Commissioner Bolick made a motion to purchase the property located in the Alexander Industrial Park as discussed subject to the drafting of a purchase agreement with Alexander Railroad. Commissioner Hammer seconded the motion. The Board voted unanimously in favor of the motion.

PUBLIC HEARING: REZONING CASE 08-1 – BLACKWOOD

Sylvia Turnmire, Director of Planning & Development, presented Rezoning Case 08-1 submitted by Allen Blackwood. The applicant requested rezoning of property located on Cemetery Loop from R-20 (Residential) to RA-20 (Residential-Agricultural) to allow for a doublewide manufactured home. The size of the property tract is 2.49 acres and the current land use is vacant. Ms. Turnmire stated that zoning within 100 feet of the property was R-20 on all sides and she noted that land uses within 100 feet of the property was single-family site-built residential also on all sides.

Ms. Turnmire stated that the subject property was obtained by the current owner in 1969, noting that Tax Office records indicated that the existing home on Tract A of the property was also built in 1969. She pointed out that the property was currently served by public water and would be served by an 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 2.49 acres. The sizes of surrounding properties are:

North – 6.0, 1.0, .46, .45, .45, and .53 acres
South – .73, .45, and 12.05 acres
East – .60, .41, .40, .50, and .43 acres
West – 14.16 and .71 acres

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

1. Section 154.145 of the Alexander County Zoning Ordinance states that the R-20 District is established to provide quiet, low-density living areas consisting of only single-family and related uses necessary for sound neighborhoods. The regulations for this district are designed to stabilize and encourage a healthful environment for family life in areas where public or community water or sewer facilities may be available.
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. 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 facilities are available.
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 does not mention any major thoroughfares in the vicinity of the subject property or any improvements to Cemetery Loop. The Annual Average Daily Traffic Count for nearby Hubbard Road was 2,900 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.

An RA-20 zoning district is at a distance of 1,100 feet in the northeast corner of Hubbard Road and Cemetery Loop. All immediately adjoining properties are occupied by site-built homes. Two manufactured homes are within 500 feet of the property; however, they were placed on the property in 1960 and 1968, well before the adoption of the initial Bethlehem Zoning in 1987, and were therefore grandfathered.

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 five phone calls in opposition to the request and that four individuals spoke in opposition to the request at the Planning & Zoning Commission Meeting held on February 7, 2008.

She informed the Board that Planning & Development staff recommended denial of the rezoning request due to the lack of similar uses or zoning districts within 100 feet of the subject property. She also stated out that the Planning & Zoning Commission held a public hearing on February 7, 2008 to consider the request where they unanimously recommended denial of the rezoning request.

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.

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

Public Comment

Daniel Guthrie, adjoining property owner, was opposed to the requested rezoning, stating that the placement of a mobile home in the area went against the overall plan for the neighborhood. He explained that he and his wife purchased their current home to improve and resale and he felt that this rezoning would negatively affect his property value. He mentioned that a small home, which could later be used as rental property, could be built on the Mr. Blackwood's property to conform to the current zoning standards.

Michael Rozea, President of Oliver's Landing Home Owner's Association, also stated his opposition to the request. He felt that approval of this rezoning request would set precedence for others to request the same.

Dave Phillips, Oliver's Landing HOA Board Member, inquired about the procedure for the replacement of mobile homes which were in existence before the 1987 Bethlehem Zoning. Ms. Turnmire explained that mobile homes that existed before zoning occurred and were therefore grandfathered could be replaced with another mobile home; however, she noted that the replacement mobile home had to be set up within 6 months of the date the older home was removed from the property.

Mary Guthrie asked for clarification on the number of people that called and also spoke in opposition to the request prior to this meeting, which she was provided.

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 Bolick asked if there was any notation on the deed that the property was federally listed as agricultural property. Ms. Turnmire replied that she was not aware of any such notation. Commissioner Bolick stated that he did not want to prevent any person from having a home but noted that spot zoning was difficult to approve.

Commissioner Robertson referred to the 4 factors to show a reasonable basis for the zoning by stating that this request did not comply with all factors, which was why he could not vote in favor of the request.

Commissioner Robertson made a motion to deny Rezoning Case 08-1. Commissioner Hammer seconded the motion. The Board voted unanimously in favor of the motion.

At this time, Allen Blackwood asked to speak. Chairman Yoder explained that the opportunity for public comment had already been given. Mr. Blackwood stated that he could not hear what was being said and thought the Board would call on him to speak. Chairman Yoder apologized and discussed Mr. Blackwood's option to appeal the decision made by the Board with an attorney.

PUBLIC HEARING: TEXT AMENDMENT 08-1 – SIGNS

Sylvia Turnmire, Director of Planning & Development, presented Text Amendment 08-1 to the definitions and sign sections of the Alexander County Zoning Ordinance. She mentioned that on September 10, 2007 the Board of Commissioners adopted a moratorium on off-premise signs (billboards), pursuant to N.C.G.S. 153A-340(h) to expire on March 10, 2008. Since that time, staff and the Planning & Zoning Commission have been researching many options for the revision of this section.

She explained that the amendment, which was unanimously recommended by the Planning & Zoning Commission, included revisions to the entire sign section of the ordinance, which had not been updated since 1997. Format and organizational changes were also made as well as substantial changes in content to include sign categories of exempt, prohibited, temporary, on-

premise, and off-premise. Ms. Turnmire reviewed other significant sections such as dimensional requirements, illumination, and the application process and pointed out that the policy did not attempt to regulate NC Department of Transportation signs.

Commissioner Hammer addressed his concerns and questions with several sections of the proposed text amendment as did Commissioner Bolick. Commissioner Hammer inquired about enforcement of the sign section.

After discussion, the Board agreed to change the proposed amendment as follows:

1. Section 154.112 (Signs Prohibited in All Districts) – allow portable signs, roof signs, banners, balloons, or other air or helium filled device or pennants for 30 days.
2. Section 154.113 (Temporary Signs) – change requirement for political signs and posters from less than 6 feet in area to 32 feet.
3. Section 154.125(G) (Off-Premise Signs-Billboards) – revise the maximum permitted area for signs abutting US 64 and NC 16 to 380 square feet and 200 square feet per face for signs on other roadways.
4. Section 154.127 (Nonconforming signs-Compliance Schedule; Relocation) – delete the requirement for existing signs not conforming to the requirements to be removed or brought into compliance within 2 years of notice, unless the sign was unsafe and not creating a hazard.

Chairman Yoder called the public hearing to order and requested any public comment. There being no public comment, 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 Bolick made a motion to approve Text Amendment 08-1 to include the amendments as described. Commissioner Robertson seconded the motion. The Board voted unanimously in favor of the motion.

Commissioner Robertson made a motion to approve an effective date of March 11, 2008 for Text Amendment 08-1. Commissioner Hammer seconded the motion. The Board voted unanimously in favor of the motion.

PUBLIC HEARING: TEXT AMENDMENT 08-2 – ALTERNATIVE FUELS

Sylvia Turnmire, Director of Planning & Development, presented Text Amendment 08-2 to address new technologies that have emerged since the adoption of the Zoning Ordinance in 2001. She explained that these new technologies would allow for increased opportunities for the citizens of Alexander County, resulting in the need for several uses to be added to the use matrix.

She reviewed the proposed definitions to include biodiesel and biodiesel processing plant as well as the proposed changes to the Schedule of Uses to coincide.

Ms. Turnmire informed the Board that the Planning & Zoning Commission met on February 7, 2008 to consider this text amendment and unanimously recommended approval.

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

Commissioner Hammer made a motion to approve Text Amendment 08-2 as presented. Commissioner Robertson seconded the motion. The Board voted unanimously in favor of the motion.

Chairman Yoder made a motion to approve an effective date of March 11, 2008 for Text Amendment 08-2. Commissioner Robertson seconded the motion. The Board voted unanimously in favor of the motion.

PUBLIC HEARING: TEXT AMENDMENT 08-3 – FLOOD DAMAGE PREVENTION ORDINANCE

Sylvia Turnmire, Director of Planning & Development, presented Text Amendment 08-3 to the Flood Damage Prevention Ordinance to address the elevation certificate requirement for property transfer deeds. She explained that this requirement, which was requested by Chairman Yoder, was a “locally adopted higher standard” according to FEMA.

She provided an excerpt from Chapter 159.210(C)(1) and stated that the amendment would read as follows:

The Final Elevation Certificate (FEMA Form 81-31) shall also be attached to the property transfer deed when recorded at the Alexander County Register of Deeds Office.

Chairman Yoder called the public hearing 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 Robertson made a motion to approve Text Amendment 08-3 to be effective immediately. Commissioner Bolick seconded the motion. The Board voted unanimously in favor of the motion.

LEPC ANNUAL REPORT

Russell Greene, Emergency Services Director and LEPC Chairman, presented the 2007 Local Emergency Planning Committee annual report, which included the following information:

The Alexander County LEPC met on February 8, 2007 at CVCC / Alexander Center Room 103. A total of 16 members and 4 visitors were present. The following business was discussed by the committee:

1. The Health Department's Strategic National Stockpile Plan.
2. Tier Two Report and letter of advertisement.
3. Communications update by Sheriff Hayden Bentley.
4. Highway 127 bridge closure and repair update by Lynn Marshall.
5. Overview of 2007 Homeland Security Grants.
6. Update on hospital closing.
7. Approval of 2006 annual report.

During the May 24, 2007 meeting held at the Emergency Services Office on Old Wittenburg Road, 10 members and 3 guests heard the following reports and took action as necessary.

1. The Health Department's Strategic National Stockpile and Influenza Plans.
2. Tier Two Report.
3. Update on hospital and response from EMS.
4. Major incidents review.
5. State Emergency Management Conference review.
6. Health Department's Pandemic Plan test.
7. Shurtape Technologies / County Central Receiving and Distribution Point.
8. Report on \$4,900 Hazardous Materials Emergency Planning Grant for Commodity Flow Study.
9. Homeland Security CEDAP grant for a Radio Interoperability System.
10. Red Cross Report.

Mr. Greene informed the Board that the LEPC would be updating the County's Emergency Operations Plan in the months to come. He also pointed out that there were several appointments to be made to the LEPC later in the meeting.

Commissioner Hammer discussed a few of the grants and thanked Mr. Greene and the LEPC for their efforts.

JOINT RESOLUTION CELEBRATING 100 YEARS OF COUNTY UNITY IN RECOGNITION OF THE NCACC CENTENNIAL

Chairman Yoder presented a Joint Resolution Celebrating 100 Years of County Unity in Recognition of Our Association's Centennial. He stated that the North Carolina Association of County Commissioners would celebrate its 100th anniversary in March 2008.

Chairman Yoder made a motion to approve the Joint Resolution Celebrating 100 Years of County Unity in Recognition of Our Association's Centennial. Commissioner Bolick seconded the motion. The Board voted unanimously in favor of the motion.

SMOKING IN COUNTY BUILDINGS

Rick French, County Manager, presented an updated Smoking in County Buildings Ordinance. He stated that the ordinance prohibited smoking in all buildings or facilities owned, leased, operated, occupied, managed, or controlled by the County and provided regulations for signage, enforcement, and penalties.

Mr. French mentioned that the ordinance would take affect once adopted and would immediately replace the current ordinance.

Commissioner Robertson made a motion to approve the Smoking in County Buildings Ordinance. Commissioner Bolick seconded the motion. The Board voted unanimously in favor of the motion.

AGREEMENT WITH ENERGYUNITED WATER CORPORATION FOR NORTHEAST WATER PROJECT

Rick French, County Manager, presented an agreement between Alexander County and EnergyUnited Water Corporation in relation to the Northeast Water Project. He explained that the agreement would allow EnergyUnited to operate the system once construction was completed.

Commissioner Robertson made a motion to approve the agreement between Alexander County and EnergyUnited Water Corporation to operate the Northeast Water System. Commissioner Hammer seconded the motion. The Board voted unanimously in favor of the motion.

AMENDMENT TO THE NORTHEAST WATER PROJECT ENGINEER AGREEMENT

Rick French, County Manager, provided an amendment to the short form of agreement between Alexander County and West Consultants for the Northeast Water Project. He reported that the amendments included the addition of contract administration and inspection to the description of engineer's services to the original agreement, which was approved in August 2006.

Commissioner Hammer made a motion to approve the amendment to the agreement with West Consultants for the Northeast Water Project. Commissioner Bolick seconded the motion. The Board voted unanimously in favor of the motion.

BID AWARD FOR HIDDENITE WATER & SEWER PROJECT

Rick French, County Manager, recommended the bid for the Hiddenite Water & Sewer Project be awarded to Neill Grading & Construction Company, Inc. He stated that a bid opening was held on February 6, 2008 where 6 bids were submitted. Neill Grading & Construction Company submitted a low bid of \$894,618.53.

Commissioner Robertson made a motion to approve the low bid of \$894,618.53 submitted by Neill Grading & Construction Company for the Hiddenite Water & Sewer Project. Commissioner Bolick 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. CRIMINAL JUSTICE PARTNERSHIP ADVISORY BOARD

Reappoint Camilla Newland	3 years
Reappoint Dale Graham	3 years
Reappoint Tammy Lippard	1 year
Reappoint Ingrid Townsend	1 year
Reappoint Tony Jones	1 year
Reappoint Rick French	1 year
Reappoint Sarah Lunsford	1 year
Reappoint Kim Taylor	1 year

B. EQUALIZATION & REVIEW BOARD

Appoint Patsy Little	1 year
Reappoint David Odom	
Reappoint Wes Bolick	
Reappoint Sue Watts	
Reappoint Ron Roseman	

C. WPCOG SISTER CITIES ASSOCIATION

Reappoint Dwight Shook	1 year
Reappoint David Icenhour (alternate)	

D. LOCAL EMERGENCY PLANNING COMMITTEE

Appoint Clint Patterson	3 years
Reappoint William Hammer	
Reappoint Leeanne Whisnant	

Reappoint Hayden Bentley
Reappoint Russell Greene

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

Commissioner Robertson made a motion to reappoint Russell Greene as LEPC Chairman. Commissioner Hammer seconded the motion. The Board voted unanimously in favor of the motion.

CORPORATE BANKING RESOLUTION

Rick French, County Manager, submitted a corporate banking resolution from First Citizens Bank. He stated that approval of the resolution was necessary for the County to continue business with First Citizens Bank.

Commissioner Bolick made a motion to approve the corporate banking resolution. Commissioner Robertson seconded the motion. The Board voted unanimously in favor of the motion.

BUDGET ORDINANCE AMENDMENTS #36 - #38

Rick French, County Manager, discussed the purpose of Budget Amendments #36 - #38, which included the following information:

Budget Amendment #36 – To increase the Health Department budget for additional state aid funds. To increase the Animal Control budget for the spay/neuter program and for the purchase of rifles and handguns for Animal Control. To increase the budget for the Library and Bethlehem Branch Library due to an additional allocation of state aid.

Budget Amendment #37 – To budget for a decrease in NC Rural Center grant funding due to one manufacturing facility's decision to not participate in the job creation portion of the project.

Budget Amendment #38 – To increase the Sheriff's Department budget for salary adjustments effective with the 3/14/08 pay date.

Commissioner Bolick made a motion to approve Budget Amendments #36 - #38. Commissioner Robertson seconded the motion. The Board voted unanimously in favor of the motion.

OTHER BUSINESS

The following issues were discussed during Other Business:

- A. Rick French, County Manager, requested the scheduling of a joint work session on March 31, 2008 with the Planning & Zoning Commission to discuss the Comprehensive Land Use Plan. The Board agreed
- B. Commissioner Robertson again mentioned possible legislation that would force counties to fund telephone equipment and service for court facilities. He reported that Representative Ray Warren and Senator Steve Goss had been made aware that counties were against this legislation.

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

CONSENT AGENDA

- A. Minutes from the February 11, 2008 Regular Commissioners' Meeting.
- B. Community Child Protection Team and Fatality Review Team Annual Report.

Commissioner Bolick made a motion to approve the Consent Agenda. Commissioner Hammer 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

Rick French, County Manager, announced that there was no need to enter into a Closed Session. The Board agreed that Closed Session would not be held.

ADJOURNMENT

There being no further business, Commissioner Odom made a motion to adjourn at 8:17 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