

POLK COUNTY MINUTES
October 5, 2009 @ 7:00 PM
PUBLIC HEARINGS
BOARD OF COMMISSIONERS' REGULAR MEETING
R. J. Foster Hall of Justice, Womack Building
Columbus, N.C.

PRESENT: Chairperson Walker, Vice-Chairperson Watson, Commissioners Gasperson, McDermott and Melton.

Others in attendance: County Manager Whitson, County Attorney Hix, Clerk to the Board Britton, staff, media and citizens.

1. Call to Order/Welcome – Chairperson Walker.
2. Invocation – Vice-Chairperson Watson.
3. Pledge of Allegiance – Commissioner Gasperson.
4. Public Hearings – Chairperson Walker called the hearings to order. She read the notification of the public hearings that were announced in the Tryon Daily Bulletin, September 24 & 29, 2009. Citizen comments were held on the following proposed ordinances: 1. An Ordinance amending the Zoning Ordinance of Polk County; Creating the MHO Mobile Home Overlay Zoning Classification; Establishing Standards. 2. An Ordinance Creating an MHO Mobile Home Overlay Zoning District on 132.4 Acres Situated South and West of the intersection of Interstate 26 and Skyuka Road. The following properties, as identified by parcel identification numbers: P46-4, P46-56, P46-57, P46-58, P46-59, P46-60, P46-61, P46-62, P46-63, P46101, P46-111, P46-118, P46-151, P47-262, P47-310, P47-311 would be included within such overlay district.
 - 1) Jack Newton - Tranquil Lane, Mountain Shadows subdivision. He explained that he had no problem with Mr. Foster's hardship request of placing a mobile home on his property for his grandchild. The real issue that he opposes is the amendment that can and will affect every resident of Polk County. He felt the ordinance would have an adverse effect on attracting new homeowners. He felt enforcing this ordinance (if it multiplies) would be impossible and costly.
 - 2) George Patton – Mountain Shadows subdivision, Skyuka Road. Mr. Patton's full written statement is filed with the Clerk. He feels this amendment must be defeated to protect the integrity of existing zoning in our area.

- 3) Cathie Campbell – Oak Ridge Estates, off Skyuka Road. Ms. Campbell agreed with the two preceding speakers. She does not feel this is a well thought out plan.
- 4) Emily Dona – She does not feel there would be any impact on surrounding properties. This family has held on to the property to pass on to family members and wanted to provide a place for their children and grandchildren. Please put yourself in their position and support the overlay and the fact that it is case by case.
- 5) Bernie Corden – Laurel Ridge Road, off Skyuka Road. He had worked hard to obtain the RE-1 zoning designation for Skyuka Road neighborhood. He felt the overlay classification would lower property values in any residential area where it is applied. This amendment would take zoning legislation 2 steps backward.
- 6) Jack Lingafelter – He is against the proposed amendments to create these two new ordinances. There is not a permitted use table and felt this application was incomplete.
- 7) Brad Foster (applicant of original rezoning request) – The desire to put a mobile home on his property where no one can see unless they come on his property should be his business. He explained that he did not know his property was zoned years ago and missed the 10 year time period correction. His family has lived in the county for over 200 years. All he asked for was one mobile home on a solid foundation which would become a house. He asked how far can zoning go?
- 8) Greg Lackamp - Skyuka Mountain Road. He felt Mr. Foster should be able to put a mobile home on his property. He questioned why there had to be an ordinance. Hardship cases should be allowed like this one for people starting out and to be a part of the community. He suggested the board consider this a policy outside of a Board of Commissioner ordinance that influences the entire county.
- 9) Skip Merrill - Fairlane Estates. He is opposed to the amendments to create the mobile home district. He feels it will detract from the property values of various people. If this is allowed to happen he feels there will be many people that have unique circumstances which would circumvent current ordinances.
- 10) Lora Baker – She spoke on behalf of Mr. Foster. She outlined the plan which she stated was a well thought out plan and defended it. Her presentation is on file in the Clerk's office.

Cathy Ruth, Planner, presented to the Clerk the certification of the mailing and notices of public hearing on September 24 and 29, 2009, in the newspaper.

5. Discussion followed. There was no vote taken. Ms. Ruth and the Board recommended further work with Attorney Egan (who could not attend this meeting) to add additional clarity to the ordinance:
 - Definition of lineage needs to be addressed
 - Enforcement of a signed affidavit as a requirement of the annual report
 - Clarification that the conditional use permit is given to the current landowner; the specific person the hardship is being considered for, address the section that only allows that person to live in the mobile home; and specify the hardship.

Commissioner Melton made a motion to reconvene the public hearing Wednesday October 21 at 7:00 pm in the Womack Building, seconded by Vice-Chairperson Watson and the motion carried unanimously.

Commissioner Melton made a motion to advertise a special meeting subsequent to the public hearing October 21, 2009, if action needs to be taken, seconded by Vice-Chairperson Watson and the motion carried unanimously.

6. Approval of Regular Board of Commissioners minutes for September 21, 2009 - Commissioner Melton made a motion to approve the minutes, seconded by Commissioner McDermott and the motion carried unanimously.
7. Approval of Agenda – Commissioner Gasperson recommended tabling agenda item #11 until a later date due to the lengthy agenda. Commissioner Melton made a motion to approve the amended agenda, seconded by Commissioner Gasperson and the motion carried unanimously.
8. Resolution of Support - Commissioner Melton requested this item be placed on the agenda. Commissioner Melton read the resolution which requests Senator Apodaca and Rep. Guice's support in the legislature for the Watershed WS-III classification for Lake Adger. This resolution will be sent to Senator Apodaca, Rep. Guice and all the members of the General Assembly. Commissioner Melton made a motion to adopt the resolution, seconded by Commissioner Gasperson and the motion carried unanimously. Commissioner Melton thanked County Manager Whitson and Commissioner McDermott for their combined efforts on the resolution.
9. Harmon Field Open Air Gym Update – George Alley, Director, gave a power point presentation on the progress made at Harmon Field and the Open Air

Gym. He thanked the Board again for their donation and support in replacing the roof on the gym. He also reported that he has a \$10,000 grant to fix the interior.

10. Land Of Lakes Petition - Requests the Board to review SR-1 submitted by Silver Creek community in preparation of sending it to NCDOT. Kipp McIntyre, Economic Development Director, was present and introduced Rita Holden, Vice President of the Silver Creek community. Ms. Holden and Dan Schmidt, also of the community, spoke in support of the petition of support and resolution. The resolution requests that Bishop Road, Twin Drive, Hitching Post and Chimney Rock Roads be added to the Secondary Road System. Problems began 20 years ago when the community homeowners' association disbanded and the 12 miles of road deteriorated. Chairperson Walker read the resolution. Commissioner Melton made a motion to approve the resolution and forward to the North Carolina Department of Transportation, seconded by Vice-Chairperson Watson and the motion carried unanimously. Chairperson Walker commended them on their efforts.
11. Affordable Housing Committee – Commissioner Gasperson requested this item placed on the agenda. This item was tabled until a later date.
12. Hunting Written Permission Ordinance – Commissioner McDermott requested this item be placed on the agenda. Linda Sprague and Brenda Brock, supporters of this proposal, were present to answer questions regarding their proposal and issues that had happened in their neighborhood. Commissioner McDermott explained that Polk County has three local laws on the books to regulate hunting (however, not a hunting written permission law). She stated it was not unusual in the State of North Carolina to have these laws.

Ms. Brock reported on this issue. In Polk County, you do have to have permission to hunt on someone's property but it does not have to be written. She felt this would be a benefit to landowners and adjoining neighbors; we do not want to limit hunting but do want to limit illegal hunters or poachers. This would also benefit wildlife officers. She read the proposal and stated that this permission does need to be on one's person. Transylvania and Rutherford counties do have this ordinance. 32 counties have written permission ordinances and 56 counties have some kind of permission laws. Polk County does have a law that hunters cannot hunt from the road or the right-a- way.

Citizen Comments.

- 1) John Blanton – Retired NC Wildlife Officer. He has worked many counties that have this permission law. Based on his information the Wildlife Commission does not support any type of written permission law because it further restricts hunting. Wildlife Commission's

budget is made up of hunting, fishing and boating licenses. Each time such a local law is enacted more hunters drop out of hunting, Less hunting means less revenue for the Wildlife Commission. He stated that he believed the reason they were here tonight was due to the "Goose" incident in Hunting Country recently. Those hunters were legally there and it is his opinion the only violation at that incident was the hunter harassment violation when someone other than the landlord enters the property – only law enforcement has the authority to ask for a written permission slip. He asks that you consider if you are a landowner and Polk County has a written permission law and a person comes to me and wants to have a field trial with 50 participants, He is not going to write 50 permission slips. It is his recommendation, as a former wildlife officer that Polk County, stay with the system they have and possibly put more teeth into the violation when it occurs and that the properties are posted. The written permission is not fair and does not require a property to be posted.

- 2) Gary Haynes – Sunny View, where there is a lot of hunting. He is President of the Polk County Coon Club. If this law is passed it will bring a lot of work and hardship on us. We are dead set against it.
- 3) Sam Mills - Mr. Blanton and Mr. Mills covered everything he was going to say. He has hunted all his life and never had any violations. Verbal permission from the landowner works very well.
- 4) Burt Baer - Landowner in Hunting Country. He does not believe there would be a drop in revenue if this ordinance was passed. He supports the ordinance.
- 5) Peter Mahler – Hunter in Polk County. He has never hunted without permission. He is having a lot of problems from hunters in S.C. He feels there needs to be a way of controlling it.
- 6) Linda Sprague – She stated she was a landowner and feels it is her right to be very specific in allowing people to come and hunt on it. If she wanted to hunt and someone told her she needed written permission then she would get written permission, it is that simple. She doesn't think that this will curtail or prohibit hunters. It is something that needs to be in place to give the landowners some rights.
- 7) David Smith – Commissioner Melton read an email from Mr. Smith who is in support of the written permission to hunt proposal. He urged the commissioners to pass the ordinance for it will only impact those that are illegally hunting or trespassing.

- 8) Siegfried Forster – Commissioner McDermott read an email in support of the written permission to hunt proposal. It would be difficult for law enforcement to act if this law is not in place. This can only benefit law enforcement and Polk County land owners. I am also a hunter and have always given permission in writing.

Toby Jenkins, Wildlife Officer, was called forward. Discussion followed with the Commissioners. Mr. Jenkins explained that he worked for the sportsman and the citizens of Polk County. In his position, if you pass a law he will enforce it, if you don't he will enforce the laws we have. He is aware that the Wildlife Commission does not support the written permission law. In his experience, if a landowner does not give permission to hunters, it is wide open hunting for illegal hunters and poachers because there is no one hunting the property. He explained that the Sheriff's Department enforces trespassing; the Wildlife Commission would issue a citation if an illegal hunter was hunting without permission. Mr. Jenkins is contacted through an 1-800 number out of Raleigh.

Billy Rogers, Mr. Jenkins's Supervisor, (Transylvania, Henderson and Polk Counties) was also present. In his opinion, he doesn't see any difference in the supervision of the three counties (Transylvania has the written permission law.) Larger counties such as Henderson and Buncombe do not have the written permission law.

Commissioner Melton made a motion to schedule a public hearing for November 16, 2009 @7:00 to hear public comment on the hunting written permission ordinance and invited Mr. Rogers and Mr. Jenkins of the Wildlife Commission to attend, seconded by Commissioner McDermott and the motion carried unanimously.

13. Financial Narrative – Sandra Hughes, Finance Officer, gave a financial update for the month ending August 31, 2009, and the following budget amendments. That report is filed in the Clerk's office.

Budget Amendment #9 - Social Services - \$137,390 is additional funding from Smart Start, \$59,141 and ARRA, \$78,249. This changes the allocation from \$586,174 to \$723,564. Commissioner Melton made a motion to approve BA #9, seconded by Vice-Chairperson Watson and the motion carried unanimously.

Project Budget Ordinance – Senior Recreational Center Building Purchase and Building Addition. Commissioner Melton made a motion to approve the Senior Recreational Center Building Purchase and Building Addition, seconded by Commissioner Gasperson and the motion carried unanimously.

Budget Amendment #3 - Appropriate Fund Balance – Revaluation Fund. \$25,812 to appropriate fund balance to pay the final balance owed on the revaluation contract. This amount could not be estimated during the budget process. We are under our contract amount by approximately \$44k including this invoice. Commissioner Melton made a motion to approve BA #3, seconded by Vice-Chairperson Watson and the motion carried unanimously.

14. Tax Refund Request – Ryan Whitson, County Manager, presented the September tax refunds. Vice – Chairperson Watson made a motion to approve the requests, seconded by Commissioner Gasperson and the motion carried unanimously.
15. Board Vacancies (Review) - The Planning Board applications reviewed were; Lee Bradley of Columbus, Lisa Krolak of Columbus, and Harry Petersen of Tryon.
16. Adult Day Care Center - (a) Revenues and Expenditures for Senior Recreation Center Project – Vice-Chairperson Watson and Commissioner Gasperson have worked on the cost breakdown which shows the Board where we are at this time in completing the adult day care project. That cost breakdown total is \$153,066.00. The total estimate of funds available is \$106,417.00. That includes the capital projects appropriation request which is \$71,417.00. (This amount is money unspent on completed projects, interest and sales tax.) Vice-Chairperson Watson made a motion to request this appropriation of the Capital Projects Fund Balance to be made available for this project. This motion was seconded by Commissioner Gasperson and the motion carried unanimously.

(b) Vice-Chairperson Watson volunteered to work on grants for adult day care and will enlist other volunteers for assistance.

(c) Update on Janirve Grant – This grant is an Asheville foundation which has been receptive to the Council on Aging. The deadline is December 1, 2009, and Vice-Chairperson Watson and Commissioner McDermott will work on the grant.

Commissioner Melton has agreed to organize and facilitate the fundraising efforts for the remaining funds and has set a goal of \$50,000. He has begun to form a committee and already has volunteers. Any donations will flow through the Council on Aging.

(d) Change Order Prices – In the cost breakdown the following change orders were approved. Commissioner Gasperson made a motion to approve the proposal from Hays Backhoe Service for the grading. The price is \$36,000. Vice-Chairperson Watson seconded and the motion carried unanimously.

Vice-Chairperson Watson made a motion to approve the following: New canopy and new ridge vent on existing building from TNN @\$22,490; Exterior Concrete & Re-do Fence from TNN @\$3,000; Sprinkler System – Exterior (6” Tap and installation) from Columbus @\$7,800; Sprinkler System – Exterior (6” water line and hydrant) from ICWD @\$8,200.00 and Sprinkler System – Meter Pit from TNN @\$15,420.00. Commissioner Gasperson seconded and the motion carried unanimously.

(e) Guidance on Rutherford Life Contract. County Manager will meet on the contract next week.

Citizen Comments. (1) Margaret Kell, Tryon, thanked the Board for their long and continuous work on adult day care. She stated there was a need in the community and appreciated the work put forth.

17. County Manager’s Report – (1) For information only, there will be a Work Session on the Subdivision Ordinance and a tax appeal hearing November 9, 2009 @7:00 pm in the Womack Building Commissioner meeting room.
18. Citizen Comments on Non-Agenda items - There were none.
19. Commissioner Comments – The Commissioners thanked each other and the County Manager for the hard work on the adult day care project and coming together on this project.
20. Adjourn – Vice-Chairperson Watson made a motion to adjourn the meeting, seconded by Commissioner Melton and the motion carried unanimously.

POLK COUNTY BOARD OF COMMISSIONERS

ATTEST:

Anne Britton
Clerk to the Board

Cindy Walker
Chairperson