

POLK COUNTY MINUTES
November 16, 2009 @ 7:00 PM
PUBLIC HEARING
BOARD OF COMMISSIONERS' REGULAR MEETING
R. J. Foster Hall of Justice, Womack Building
Columbus, N.C.

1. Call to Order/Welcome – Chairperson Walker.
2. Invocation – Vice-Chairperson Watson.
3. Pledge of Allegiance – AmeriCorps workers Joseph Burdett and Moira McCormack led the pledge.
4. Resolution For The Purchase Of Lake Adger – Attorney Billy Clarke was present with the revised Lake Adger resolution and recommended to the Board that they close on the Lake this week. The Northbrook Survey was complete, the Lease Document was updated and complete, and he is just waiting on some resolutions from Northbrook. Attorney Clarke, in light of the “bargain” and “good deal” the Commissioners have obtained, recommended they adopt the resolution. Vice Chairperson Watson made a motion to adopt the revised resolution authorizing the County Manager to close this week, Commissioner Melton seconded and the motion carried unanimously.
5. Public Hearing – Chairperson Walker – Call to Order. Notification of the Public Hearing was announced in the Tryon Daily Bulletin on Wednesday, November 4, 2009. Citizen comments will be held on the proposed Hunting Permission Resolution. County Attorney Hix clarified that this is not an ordinance, but an opportunity to vote on a resolution which would then be sent to the Polk County representatives to bring a resolution before the North Carolina legislators for a vote.

The following citizens spoke on whether hunters should carry written permission to hunt on the property of others. Also filed in the Clerk's office are lists of people in support of the written permission law and those that are opposed. These residents chose to sign their name to a list rather than to speak.

- 1) Bob Moss – He is not against hunting and supports written permission law.
- 2) Mitchell Rickman – Opposes written permission law.
- 3) James Bramner – Opposes written permission law because it is one more federal regulation.
- 4) James Kilgore – Opposes written permission law. Does not think there is enough of a problem.
- 5) Frank Smith – Owns 400 acres and is in favor of hunting but supports written permission law signed by the land owner.

- 6) David Foster – Opposes the written permission law.
- 7) Linda Sprague – Felt this is an issue of safety due to changes in population and density. She is not against hunting and guns but supports the written permission law.
- 8) John Blanton – Is a hunter and opposes the written permission law. There are already laws on the books such as the Trespass Law and the Registered Land program. He doesn't want to carry a book of permission slips.
- 9) Bonnie Wood – Supports the written permission law as the property lines have changed.
- 10) Jeff Flynn – He feels there are no problems; opposes written permission.
- 11) Mari Cartwright – She is not opposed to hunting but believes this is a safety issue and supports the written permission law.
- 12) Gary Haynes – Is opposed to written permission law. He feels all the young people attending the meeting want to hunt. Man's word should be his honor.
- 13) Debra Carton – Supports the written permission law due to increased density in the county.
- 14) Stanley Brigman – Is a hunter and opposed to the written permission law.
- 15) Wayne Orr - Supports written permission law and respects the land owner.
- 16) Danny Walker – Teaches hunter safety and goes to the schools and teaches ethics. He is opposed to the written permission law.
- 17) John Hansborough – Supports written permission law. He is not against the hunters.
- 18) Susan Penfold – She is not against hunting but supports the written permission law.
- 19) Darrell Price – He is opposed to the written permission law.
- 20) Emmy Summers – Supports the written permission law.
- 21) Paula Mullenax – Supports the written permission law.
- 22) Ruth Grubbs – Supports the written permission law. She has livestock on her property and has clearly posted No Trespassing Signs and still has a problem with hunters. The safety issues are huge.
- 23) Brenda Brock – She is not against hunting but supports written permission law.
- 24) Commissioner Melton was asked to read two letters in support of the written permission law, one from Burt Baer and one from Linda Lee Reynolds.

Vice-Chairperson Watson made a motion to adjourn the hearing and return to open session, seconded by Commissioner Melton and the motion passed unanimously.

6. Hunting Permission Resolution – You may make a motion to approve the resolution at this time. Instead of the Hunting Permission Resolution, Commissioner Gasperson introduced the Registered Lands Program as an alternative, a program already in effect in North Carolina.

Commissioner Gasperson made a motion that read "That Polk County Government promote public awareness of North Carolina Wildlife Resources Commission Land Registration Program General Statutes Chapter 113 Article 21A and to assist those residents of the county who wish to register their property with the proper forms, and if necessary the correct posted signs for their property. And, also, we as Commissioners recognize that those landowners in Polk County who do not wish to participate in this program have no obligation to do so." Vice-Chairperson Watson seconded the motion. There was further discussion.

Commissioner McDermott thanked all of the residents for coming out and stated that she had taken notes on every speaker. She wanted to point out that this is not against hunting. The draft resolution that was presented shows that. It authorizes hunting; it does not stop hunting in any way. The proponents of the written permission law have addressed concerns that were expressed at the last meeting; they have put words into it that address the issue of gun clubs and field trials by writing into it that there could be one permission for all the people involved in those programs on any particular day. They responded to the people that asked for that. Sources that have experience with written permission laws say they are useful.

A. Isaac Herald, the Section Manager for State and Private Lands of the Wildlife Commission, reported that complaints from landowners to the Wildlife Commission about unauthorized hunting have fallen in counties where there are written permission laws.

Mr. Herald stated that neither the governing body nor the executive director of the Wildlife Commission has adopted any official position on written permission laws. This is contrary to what we were told at the last meeting when this was addressed. 56 counties in the State have some form of written permission law on the books.

Mr. Herald said in counties where there is no written permission law, and where landowners must depend on the existing trespassing law, there is a heavy burden on the landowner to deal with trespassing hunters. According to Mr. Herald, with the written permission law any law officer can take care of the problems. The landowner and dispatcher do not have to guess whether to call the Sheriff or the Wildlife Officer. The Landowner does not have to continually follow up with law enforcement with the magistrate. Otherwise the landowner must often take time off from work to go to the hearing with the magistrate unless there is a written permission law.

Mr. Roy Orr, a landowner from Transylvania County, wrote to the Tryon Daily Bulletin saying the best thing the Commissioners had done in that county was to enact the written permission law. He is a hunter himself and he allows

people to hunt on his land. After the law was enacted he has had very few problems. The Duke University Law Review Note (36 pages), (2004) extensively discusses the laws relating to hunting. It finds there is a burden and expense of posting properties and that burden is onerous. It is expensive and it is hard especially for elderly property owners to get out and post their land. That article recommends that States pass state-wide written permission laws and observes that 21 states have such laws on the books. There is no evidence that hunting is unreasonably difficult in any of those states that have the statewide laws. But in North Carolina it is not reasonable to expect the General Assembly to pass a state-wide written permission ordinance. Clearly the General Assembly has said in this State that individual counties should handle these matters and bring them to the attention of the Legislature. That is the remedy that the State of NC has chosen; not a remedy at the State level. It is important to protect landowners' rights. We often have people come to our meetings for various reasons and ask that their rights be protected. This is just one of those times and we do protect landowners' rights and it is not unreasonable for landowners to be asking us again in this context.

There are 17,100 land parcels in Polk County. If no written permission ordinance is adopted all 17,100 would have to be posted to protect against unauthorized and unethical hunters. That is true even with the registration law. People would still have that onerous burden of posting all their land. That means putting up those signs every 200 yards throughout the county. There are 12,480 landowners that have tax accounts in Polk County. If no written permission ordinance is passed, potentially all 12,480 citizens would have to post their property. How would that look? Is that really what we want for Polk County - these signs every 200 yards along all the roads, all throughout the county? People want to see the beauty of Polk County; not a blight of signs every 200 yards.

Large subdivisions are at risk and I know that is something that is not close to the heart of too many people. But it is an important issue. Large forested subdivisions like Bright's Creek or White Oak are also landowners and they are at great disadvantage without a written permission law. They are attractive to hunters, especially unethical hunters from out of state such as Mr. Mahler described at our last meeting. Under current law, unless Bright's Creek and White Oak post signs every 200 yards, hunters can come on their property to hunt. How much work would that be to protect those properties putting up posted signs every 200 yards? How much would that cost? If they don't post signs, would the developer be liable if stray gun fire injured a golfer or a homeowner or a visitor. And we have heard tonight where animals have been injured or killed. Indeed, a neighbor of ours had a horse killed by a gunshot. No one came forward and took responsibility for it so we can't say if it was a hunter or someone just walking around with a gun. Nevertheless, their animal was killed by gunfire. There is danger; it shouldn't be belittled. Yes, most hunters are ethical and responsible, but unfortunately the laws are in place on

the books for people who are not ethical and responsible. Mr. Herald explained that there are benefits to hunters who have a written permission law. There are fewer disturbances to hunters from unauthorized hunters on land on which they have permission to hunt, or on which they have a lease to hunt.

As Commissioner Gasperson mentioned, even some of the hunt clubs don't want other people coming on their land to hunt and so under the current law have to post it. But, with the written permission law those hunt clubs, too, could ask for written permission for land that they have leases on, or that they own. Mr. Herald found that written permission laws seem to open up lands to hunters that were previously not open to hunters. He said that is his experience. They make for good relationships between landowners and hunters and it is good for the hunters.

And, because of all of this, I must respectfully disagree with Commissioner Gasperson. Had he not beaten me to the punch, which I have to give him credit for, then I would have moved to enact a resolution asking our state legislators to pass a written permission law of the nature that has been most recently circulated, which would allow gun clubs and field trials with only one permission for all the hunters that might be involved.

Commissioner Melton asked John Blanton, 5-year veteran of the Administrative Division for the Wildlife Enforcement Division, if he had not mentioned the same thing that Commissioner Gasperson has mentioned and supports what he is saying. Mr. Blanton agreed. Sgt. Billy Rogers was also present from Transylvania County Wildlife and came forward. He said he agreed to an extent with the form that Commissioner Gasperson had recommended because this is a program that is sponsored by the Wildlife Resource Commission, whose purpose is hunting regulation. This is not for some people to just post their property and for the state to become their private protector. The Registered Lands Program is for landowners and hunting clubs alike who allow hunting on their property and want to keep other folks out. They want to have our presence around to help them do that.

For those people who have livestock or feel their property is too small, the Registered Lands Program would not be for them. That would be the State Trespass Law.

Commissioner Watson asked about the State Trespass Law which has only one officer in the county. He respects the safety issues. I don't think we are going to answer all these questions tonight with or without the written ordinance – I do like the Registered Lands Program although it will not solve all the problems. It does allow for written permission for folks to hunt on property of those who wish to give it. It does not protect those who wish to not have hunters on their property. Trespass law is supposed to do that. One problem we have - and I have heard it over and over again - is about

resources. Wildlife says they can't enforce trespassing because they don't have the resources, which will continue to be an issue. I just don't think we have enough information to move forward with the written permission law this time. At least with the Registered Lands Program, we have a step in the right direction.

Chairperson Walker stated she had been all over this issue for days and hours. I have talked to a lot of wildlife officers in the counties that have these ordinances in place. I have made many phone calls and organized my notes and have been back and forth. I have had heated debate with my fellow commissioners about this and I have talked to some of you about it as well. It is a tough situation and the thing that makes it even cloudier is the angst that's been involved in this and this "us and them" and "these people" kind of talk. That clouds the whole issue and makes it hard to get to the meat of it, and somehow in all heat of that I find we don't always make the best decisions. If I could I would like this thing to just go away. I would like for us to have time to cool down. To think about this and to study further and, I believe, Commissioner Gasperson's motion will give us the time and resource for the Registered Lands Program. We start with this, look at it, watch things and will, readdress it if we need to in the future.

Commissioner McDermott asked why we were voting on it since it was in place across the State. Commissioner Gasperson stated we are voting to make people more aware of the program and respect those who don't wish to be a part of it.

Chairperson Walker called for the vote 4-1 (McDermott opposed).
Brief recess followed.

7. Approval Of Three Sets Of Minutes - Approval of Reconvened Public Hearing minutes for October 21, 2009, Special Meeting minutes for October 21, 2009, and Regular Board of Commissioners minutes for November 2, 2009. Vice-Chairperson Watson made a motion to approve the three sets of minutes, seconded by Commissioner Gasperson and the motion carried unanimously.
8. Approval of Agenda - Mr. Whitson suggested removing items #12 and #20 from the agenda. Vice-Chairman Watson made the motion to approve, seconded by Commissioner Melton and the motion carried unanimously.
9. December 21, 2009, Commissioners' Meeting – Commissioner Melton made a motion to approve the cancellation, seconded by Commissioner Gasperson and the motion carried unanimously.
10. Recycling Report – Roulettei Gildersleeve, Recycling Board Chair, discussed the mobile recycling service schedule due to begin the first of December. She thanked the Polk County Community Foundation and the North Carolina

Pollution Prevention and Environmental Assistance program for the grants awarded to them for this project. The Polk County Recycling Board has worked for two years to complete this project and it is almost ready to go. The mobile unit will be stationed along well traveled corridors from early morning until midday on a regularly set schedule, somewhat like the bookmobile. This presentation is filed in the Clerk's office.

11. Senior Recreation Center – Mr. Whitson announced the grand opening for this facility is scheduled for November 18, 2009. The Center will serve lunch and be open from 10:00 – 2:00.
12. National Non-Profit Awareness Month, November 2009 – Melissa LeRoy, Executive Director of F.E.N.C.E, was scheduled to update the Board on the various non-profit contributions to the County. However, Ms. LeRoy was unable to attend the meeting and, due to the heavy agenda, this item was removed.
13. Adult Day Health Care Facility – a) Mr. Whitson gave an overview of funding. b) Mr. Ted Owens gave an update on the fundraising efforts. The Fundraising Committee members are Ursula Schuler, Burt Baer, Bill Jones, Roger Traxler, and Don Hoffman. Mr. Owens explained that they changed the direction of the fundraising plans since the building is nearly complete. The new direction is to raise money for tax deductible donations as scholarships to assist family members who can't afford to be at the facility. They felt this was a good incentive to fund these scholarships.

Commissioner Melton explained that he would like to partner the High School students with the Senior citizens to raise awareness of the adult day care program. Commissioner Melton met with the high school students and found they had an overwhelming understanding of the need for an adult care center and had been impacted by their own family members. Commissioner Melton made a motion to withdraw \$60,000 from the fund balance earmarked for the Adult Day Health Care Center in order to complete the Center. Commissioner Gasperson seconded. Discussion followed about proceeding too fast with this decision.

Commissioner McDermott said that in past meetings it had been her understanding that the Commissioners agreed to apply for grants and raise money through the fundraising committee, and not withdraw any more money from the fund balance account at this time. She felt it was unwise to vote tonight and thought they should continue to follow through with grant applications. Both Chairperson Walker and Commissioner McDermott felt the need to be conservative with the fund balance and to act more responsibly. It was finally decided to amend Commissioner Melton's motion to withdraw the \$60,000 from the fund balance and, if money from the grant is obtained, it will be reimbursed back to the fund balance. This money would flow through the

Council on Aging. Commissioner Gasperson seconded and the motion was approved 4-1 (Walker opposed).

14. Housing Solutions – Mr. Kipp McIntyre, Economic Development Director, updated the Board on the progress of the Housing Solutions Committee in Polk County. He announced a housing solutions symposium on Thursday, March 4th at the Polk County High School. The sub-title is to apply urban design lessons in rural communities on the edge of change. Commissioner Gasperson made a motion to appoint a steering committee with the following recommended members: Chris Greensfelder, Jim Edwards, Katherine Smith, and Susan Welsh. This motion was seconded by Commissioner McDermott and approved unanimously.
15. Mill Spring School Update, Resolution & Letters Of Endorsement – Dave Slater, Polk County Soil & Water Conservation District Board Supervisor, and Lynn Sprague, Agricultural Economic Development Director, gave the update and presented the resolution and letters of endorsement. This historic school structure was appraised at \$985,000. The ownership of the building will be under Polk County Soil and Water and the Project Coordinator will be Lynn Sprague. Mr. Whitson reported that the Mill Spring School will not be under Polk County's liability insurance. The closing will be the end of November and an "Open Class Reunion" is planned for the 2nd week in December, with tents and hot dogs outside. Four rooms will be made active and ready to use at this time.
16. Board Vacancy - Tryon Board of Planning & Adjustment, 1 application, 1 vacancy (The County has one seat on this board.) - Litchfield Carpenter. Vice-Chairperson Watson made a motion to approve the application, seconded by Commissioner Gasperson and the motion carried unanimously.

Board Vacancy (Review) – Animal Control Board of Adjustment, 3 applications, 5 vacancies. The applications were reviewed.
17. Agreement For The Provision Of County-Based Nutrition Services For The Elderly Through The American Recovery And Reimbursement Act Of 2009 – This is a local match taken out of Contingency. Commissioner Melton made a motion to approve, seconded by Commissioner McDermott and the motion carried unanimously. Citizen Comments. 1.) Katherine Smith was hopeful this provision would improve the quality of the lunches.
18. Western Highlands LME – a) 1st Quarter Fiscal Monitoring report. Mr. Whitson presented the report and it is on file in the Clerk's office. b) Board Nomination/Appointment – Mr. Whitson was recently appointed as Chairman of the Western Highlands LME.

19. Surplus Vehicles – The Sheriff’s Department would like the following vehicles declared surplus: Two 2003 Ford Crown Victorias, one 1999 Ford Expedition. Commissioner Melton made a motion to surplus the vehicles, seconded by Commissioner Gasperson and the motion carried unanimously.
20. Surplus Items – The Senior Center would like the following items declared surplus: One 4-burner oven, one flat grill oven, one bread warmer, two convection ovens, one triple door freezer, one double door refrigerator, one double door freezer, one streamer, one 12’ stainless steel 3-basin sink, one 20’ steam service table, and one large exhaust hood. There was no action taken on this item and it was removed from the agenda. These items will be turned over for use in the renovation of the Mill Spring school building.
21. Citizen Comments on Non-Agenda items - There were none.
22. Commissioner Comments – 1) Commissioner Gasperson thanked everyone for coming. 2) Commissioner McDermott also thanked all the people who came out to the meeting. 3) Commissioner Melton cheered the Tar Heels. 4) Commissioner Watson was happy that the recycling mobile unit is up and running, and that the Senior Recreation Facility will open this week. The Adult Day Care Center will be hard to fund but worth it. The written permission law would not resolve the trespassing issue, which needs to be resolved by law enforcement. 5) Chairperson Walker was disappointed in the changes in the funding of the Adult Day Care Facility tonight.
23. Adjourn – Commissioner Gasperson made a motion to adjourn the meeting, seconded by Commissioner Melton and the motion carried unanimously.

ATTEST:

POLK COUNTY BOARD OF COMMISSIONERS:

Anne Britton
Clerk to the Board

Cindy Walker
Chairperson