

**YADKIN COUNTY BOARD OF COMMISSIONERS  
REGULAR SESSION MINUTES  
Monday, June 20, 2011**

The Yadkin County Board of Commissioners met in Regular Session on Monday, June 20, 2011, in the Yadkin County Human Services Building (Commissioners' Meeting Room), 217 East Willow Street, Yadkinville, NC.

**Present were:**

Chairman Kevin Austin  
Vice Chairman Frank Zachary  
Commissioner Gilbert Hemric  
Commissioner David Moxley

**Absent was:**

Commissioner Marion Welborn

**Staff present:** Interim County Attorney, Bobby Sullivan; County Manager, Aaron Church; and Deputy Clerk to the Board, Tanya Gentry.

**INVOCATION** led by County Manager Aaron Church.

**CALL TO ORDER** by Chairman Austin at 7:00pm.

**PLEDGE OF ALLEGIANCE** led by Forbush Elementary Kindergarten Students. Principle Sheek was presented with a Yadkin County flag for the school.

**ADJUSTMENTS TO/ADOPTION OF THE AGENDA**

The County Manager requested several changes to the Agenda. He requested that "Introduction by Manager" be added as the first item under Reports/Requests of the Board. He requested that budget amendments be added in the Consent Agenda for Water & Sewer, DSS, the Sheriff's Office, and Economic Development for Nonni Food. He requested Consent Agenda Item 6 (Approve Single Family Rehabilitation Contracts), Item 7 (Approve CDBG Scattered Site Housing Grant Rehabilitation Contracts), and Item 19 (Adopt the Proposed Retirement Benefits Policy) be removed from the Agenda. In item 5 of the Consent Agenda, he requested a revised contract for Linde Gas be substituted for the one in the Agenda packet. Under Public Hearing/Action to Set Public Hearing, he requested the County Attorney's opinion be added to the rezoning public hearing item. Under Board Action, he requested item 3 (Select a Foreclosure Attorney) be removed from the Agenda. Under Manager's Reports/Board Action, he requested an agreement be added to the Jonesville Water Agreement Agenda item. Under Manager's Reports/Board Action, he requested salary range and job descriptions be added to the Public Works Director Agenda item. Keith Vestal was asked about the revised Linde Gas contract. Keith Vestal stated the revised contract contained the changes requested by the County Attorney and had been delivered to him today. After the Board took some time to consider the requested changes, all of them were allowed. **Vice Chairman Zachary made a motion to adopt the agenda with the noted changes.**

**Commissioner Hemric second.**

**Vote: 4/0.**

## **PUBLIC COMMENTS**

- 1) Gray Gentry, from the Forbush area, addressed the Board. He stated the waste collection site on Speer Bridge Road is a disgrace. An employee has spray painted information on the dumpsters that is not spelled correctly and the trash is heaping out.

Chairman Austin closed the Public Comments portion at 7:20pm.

## **APPROVAL OF MINUTES**

In item 2 on page 9, "Commissioner Moxly" needs to be changed to "Commissioner Moxley" in the motion. **Commissioner Moxley made a motion to approve the minutes with the noted change.**

**Commissioner Hemric second.**

**Vote: 4/0.**

## **REPORTS/REQUESTS OF THE BOARD**

- 1) Introduction by Manager. The County Manager reported on what had been spent so far on the jail project. Approximately \$760,000.00 has been spent on the prior project and approximately \$274,000.00 has been spent on the current project. Some of the costs of the prior project were: approximately \$162,000.00 spent for land, approximately \$489,000.00 paid to Moseley Architects, and approximately \$19,000.00 paid to S&ME for site work. To date, approximately \$1 million has been paid to RBC on the bank loan, with approximately \$484,000.00 going toward interest and approximately \$540,000.00 going toward principal. The interest rate of the loan is 3.42% and that is still a competitive rate. The maturity date of the loan is 1/27/2024.
- 2) Review RBC Bank Loan to Construct the Jail on Reavis Road. Jeremy Fisher addressed the Board. He stated the RBC loan was issued in January of 2009 to finance the jail project. Shortly after the County and RBC entered into the agreement, the money was placed into an escrow account because the County was involved in litigation over the jail site. There was a stipulation that the money could not be disbursed until the litigation issue was resolved satisfactorily. Per federal guidelines, there is also a stipulation that 80% of the loan amount must be disbursed within three years. Since no funds have been disbursed yet, the County could potentially lose its tax exempt status. He stated he met with County Manager Church and Assistant County Manager/Finance Officer Hughes last Thursday to update them and go over the specifics of the loan. Jeremy Fisher stated the easiest way to correct the current loan issue is to modify the existing loan. The original loan was a real estate loan using the land and the future jail as collateral. The Deed of Trust would need to be transferred from the old jail site to the new jail site. The terms will be maintained and the rates should remain the same. While the money has been in escrow, the escrow account has been earning interest. The interest earned goes back into the escrow account. When the project is closed, any money left in the escrow account will be turned over to the County, subject to LGC approval. Jeremy Fisher stated that a three year extension will come up in January. He believes the County could be granted that extension due to the project being held up by circumstances that were beyond our control. He suggested having County Attorney Sullivan look into that.

## **CONSENT AGENDA**

Budget Amendments were added to item 1. Items 6, 7, and 19 were removed. In item 5, a revised contract for Linde Gas was substituted for the one in the Agenda packet. Vice Chairman Zachary asked what the Professional Services line item increase was for on the Emergency Services budget amendment. Keith Vestal stated the increase in Professional Services is needed for their Medical Examiner and autopsy fees; those costs vary and are not easy to budget for. **Commissioner Hemric made a motion to approve the consent agenda with the noted adjustments. Commissioner Moxley second.**

**Vote: 4/0.**

- 1) Budget Amendments.
  - a) Animal Control.
  - b) Criminal Justice Partnership.
  - c) Elections.
  - d) Emergency Services.
  - e) Fire Marshal.
  - f) Health Dept.
  - g) IT Dept.
  - h) Non-Departmental.
  - i) Recreation.
  - j) Register of Deeds.
  - k) Solid Waste.
  - l) Tax Administration.
  - m) Sheriff's Office.
  - n) Water & Sewer.
  - o) DSS.
  - p) Economic Development for Nonni/Chipita.
- 2) Appoint Dr. Alexander Snyder to the Board of Health.
- 3) Authorize the Health Department to Advertise For and Hire a Nutritionist II.
- 4) Approve East Bend God & Country Celebration Fireworks Display.
- 5) Approve Contract with Linde Gas North America, the EMS Oxygen Supplier.
- 6) Removed from Agenda.
- 7) Removed from Agenda.
- 8) Approve Contract with NWN for Professional Services.
- 9) Approve Contract with Computer Software Innovations.
- 10) Approve Contract for Jim Haynes.
- 11) Approve Contract with Mark Matthews Inspection.
- 12) Approve Contract with Yadkin Valley Construction.
- 13) Approve Uniform Rental Agreement with Cintas.
- 14) Approve Addendum to the ADC Contract approved at the June 6, 2011 Board Meeting.
- 15) Approve Change Order for the Cost of the Storm Drainage Investigation at the Courthouse.
- 16) Approve EMS Paramedic Part-time Pay Increase.
- 17) Approve Head Lifeguard Pay.
- 18) Adopt Surplus Property Resolution.
- 19) Removed from Agenda.

#### **PUBLIC HEARING/ACTION TO SET PUBLIC HEARING**

- 1) Public Hearing to Hear Comments Regarding the Proposed Adoption of the Updated Yadkin County Land Use Plan. Christopher Ong, on behalf of the Land Use Committee, and Carey Hobson, their facilitator, presented the updated Land Use Plan. Carey Hobson works for the NC Division of Community Planning. The last Land Use Plan was adopted in 2001 and it is recommended that a reassessment occur at least every 5 to 10 years. The Yadkin County Land Use Committee has decided to reassess every 3 to 5 years. There have been significant changes in Yadkin County since 2001; a zoning ordinance has been adopted and the Voluntary Agricultural District has been established. Also, priorities could have changed over time and it is good to reengage with the residents and see if their needs are being met. They held 2 community forums in July of 2010 to get public input. The 2010 Census data was utilized. With this plan, they were able to create a very specific Future Land Use Map. The updated Plan was presented to the Planning Board last week and they approved it by a 5/0 vote. The Land Use Plan is not an ordinance itself, it is a guideline only. Chairman Austin opened the Public Hearing at 8:00pm. No speakers came forward so Chairman Austin closed the Public Hearing at 8:00pm. **Vice**

**Chairman Zachary made a motion to amend the Agenda to include “Adoption of the Land Use Plan”. Commissioner Moxley second. Vote: 4/0. Commissioner Moxley made a motion to adopt the updated Yadkin County Land Use Plan. Commissioner Hemric second. Vote: 4/0.**

- 2) Public Hearing for a Zoning Map Amendment Request for Parcel 5846-09-9771 from RA to HB. Christopher Ong addressed the Board. Keith Hobson has petitioned to have this property rezoned from Rural Agriculture to Highway Business. The property is approximately 5.07 acres and is located at the intersection of Old US 421 and Falcon Road. It does not have an assigned address. All of the public notice requirements have been satisfied. The Planning Board recommended approval of the rezoning request by a 3/2 vote. Chairman Austin opened the Public Hearing at 8:10pm. The following speakers came forward:
- a. Ann Watkins, of East Bend, stated she came tonight representing some neighbors of the property who are opposed to the rezoning. The Highway Business District description suggests that property zoned as HB should have access to public water and sewer systems; this property does not currently have that access. The Permitted Uses Table for HB allows for many different types of uses and some of those can detrimentally harm the character of the neighborhood. To make a change to the zoning map all the allowable uses need to meet the general public’s interests and be appropriate for the area. The Yadkin County Land Use Plan agrees that the rural character of this County should be preserved. The presentation did not show any evidence that this proposed change would benefit the County in any way. The Planning Board decision to allow the rezoning was not unanimous. The Planning Board’s 3/2 vote indicates to her that there was some concern over whether or nor this rezoning was appropriate. The nearest businesses are over a ½ mile away. She believes that a Conditional Use request would be more appropriate. She requested the Board deny the proposed rezoning.
  - b. John Seipert, of Forbush, stated he and his wife own a home near the property in question. They live in a Restricted Residential District and are concerned about the proposed rezoning leading to a decrease in property values. He said he works for one of the largest mortgage lenders and was able to give the information on the proposed rezoning to their appraisal review board. Some of the potential businesses that would be allowed if the property was rezoned to HB would cause the property values in a 5,000 foot radius to decrease by as much as 20%. A decrease in property value would bring in less tax revenue to Yadkin County. The neighbors do not have any idea what type of business would be going in there. He asked for the request to be denied. He provided the Board of Commissioners with a petition signed by 15 people stating they opposed the rezoning. He felt that if the proposed rezoning was allowed, it could cause some vacant lots in the surrounding area to decrease in value by 50% and make them harder to sell.
  - c. Sam Winters, of Beach Lake Drive, asked about the May 9, 2011 meeting where the 3/2 vote took place. Christopher Ong stated that was a regularly held Planning Board meeting that was open to the public and there was no Public Hearing held that night. The Planning Board acts as an advisory board and only votes to make a recommendation. Sam Winters stated he received a letter about the Public Hearing tonight but many of his neighbors did not. He came tonight representing Billy and Teresa Matthews, Ann W. Davis, and himself. Their biggest concern is traffic congestion. There is a lot of congestion in the area already, including teenage drivers during the school year. Adding to the traffic in the area could lead to more accidents. Another concern they have is they do not know what kind of business will be there from one week to the next. Once it is zoned as HB any type of business on that permitted use list can be placed there at any time.
  - d. Mike Hitchcock, of Old US 421, stated he has lived on his property since 1994. He appreciates Yadkin County having a Zoning Ordinance and Plan. He said there has been

no convincing demonstration that the proposed change would benefit the whole group. A zoning map amendment should not be done to benefit only an individual or small group. No one knows what sort of business will be put on the property and there was no polling done to see what kinds of businesses would be wanted there. He believes that having a business on that corner will detrimentally change the character of the community. Heavy traffic is already a concern. There have been five (5) accidents on his street since he moved there, two (2) of them were in the past year. He said the Sheriff has posted officers on his drive during the school year to monitor and modulate the traffic. He has put in motion lights due to some vandalism that has already occurred on his property. He is concerned that if a business is placed on the corner there could be people loitering in its parking lot and that could lead to more vandalism. He said there are two businesses in the area that have gone out of business. If there is a need for a new business in the area, it should be placed in one of those locations; no rezoning would be required. He believes that allowing the rezoning may increase the value of the rezoned lot but it would lessen the value of the surrounding lots. It would also lessen the other owner's enjoyment of their property.

- e. Gray Gentry, of Village Drive, stated traffic is already backed up and having a business go in would only increase the congestion. He had an issue with the sign that was posted on the property letting the public know about the Public Hearing. He said it was small, short, and could only be read coming from the Speer Bridge Road direction. He said restricted residential districts surround a lot of this property, which is the most restricted district, and highway business is the least restricted district there is. There is property available with the correct zoning from businesses that have gone out of business. Any new business could go in one of those locations.
- f. Keith Hobson, petitioner for the rezoning, addressed the Board. He stated his mother owns the property. They want to sell the property with restrictions. The vacant lots by the property have a gully in them. He asked their real estate broker, Wendy Sloan, to address the Board on his behalf. She stated that the owners of the property want to restrict the permitted uses of the property to eight (8) uses they feel would be appropriate for the area. The businesses they want to restrict the property to are: a Church, a baseball hitting range, a convenience store, a gas station/service station, a mail order office for the area, a restaurant, a retail store, or a sporting goods store. She said there are many properties losing value due to the economic downturn but she doesn't believe rezoning this property to HB will cause the decreases that were mentioned earlier. She acknowledged the traffic is bad in that area. She believes that rezoning this property will allow the County some economic growth.
- g. John Seipert, of Forbush, addressed the Board again. He stated the gully runs between the vacant lots in a way that leaves adequate room for building on them. He stated rezoning this property will cause a decrease in property values that is separate from the economic downturn. There are two out of business locations that a new business can go in to. One of the businesses that went out was a gas station. There is also a vacant lot on the corner of Speer Bridge Road that is already zoned for highway business. This property is not the only option nearby where a highway business can be established.
- h. Keith Hobson, petitioner for the rezoning, addressed the Board again. He spoke about the two out of business locations. One of the locations has a couple of buildings on it, one of which is huge. There is no water or septic tank. He believes it has already been purchased. He has inquired about the out of business gas station and it is not for sale.
- i. Robert Baldwin, owner of the two (2) lots with the gully in them, addressed the Board. He stated he could see building on those two lots. Looking at the map, he can't see how the Hobson property could be zoned for commercial use where it is located. He

questioned if that was spot zoning. He opposes the rezoning. He is concerned about property values decreasing if the rezoning is approved.

- j. John Shoaf, of Beach Lake Drive, addressed the Board. He moved to Yadkin County because he wanted to be in the country. The comments he heard tonight on the decrease in property values if the rezoning is approved scares him. All around the Hobson property is residential districts; that is no place to put a highway business. They like living there where it is quiet and you can see deer, turkeys, and foxes. They don't need bright lights, litter, and noise. The traffic is already terrible. Putting a business in would create more of a traffic hazard. Please consider denying the request.

No other speakers came forward. Chairman Austin closed the Public Hearing at 8:38pm.

County Attorney Sullivan reminded the Board that if they approved the rezoning it would be a straight rezoning to highway business with no exceptions. The Board should keep in mind all of the possible uses. He clarified that only adjoining property owners receive letters about Public Hearings. He confirmed with Christopher Ong that all of the public notifications were done properly. He is concerned that this may be spot zoning. Spot zoning is not illegal but, if the rezoning is approved, the County needs to be able to provide reasons why the spot zoning was reasonable. He advised the Board to consider whether this rezoning is reasonable or not.

Chairman Austin verified with Christopher Ong that there is a one year waiting period if the zoning request is rejected by the Board of Commissioners. The Board considered sending the request back to the Planning Board instead of rejecting it. Christopher Ong did not know of any reason why it couldn't be sent back to the Planning Board. Something the petitioner can consider is requesting conditional use instead of rezoning.

**Vice Chairman Zachary made a motion to send it back to the Planning Board to review the legal opinion. Commissioner Moxley second.**

**Vote: 4/0.**

### **RECESS**

8:50pm to 9:10pm

### **BOARD ACTION**

- 1) Authorize County Manager to Send Out RFP/RFQ for Water Projects. The County Manager requested authority to send out RFP/RFQ's for an engineer to perform a County Wide Water Feasibility Study. A Water Policy needs to be done. A Forsyth County/Yadkin County Water Partnership needs to be considered. The County Manager would like to have the Water Work Session after the proposals come in. **Vice Chairman Zachary made a motion to authorize the County Manager to exempt these water projects from the RFQ process and to send out RFP's for the requested potential Water Projects. Commissioner Moxley second.**  
**Vote: 4/0.**
- 2) Set Date for a Water Work Session. Dave Saunders agreed to let the Board of Commissioners use the Boardroom at the water plant for the Water Work Session. The consensus of the Board is to have the Water Work Session on Monday, August 8, 2011. The second choice is to have it on Friday, August 5, 2011. That will allow time for the Water Project proposals to come in.
- 3) Select Firm to do the Parks & Recreation Study. Chairman Austin stated he was impressed with all three of the firms. Commissioner Moxley has reviewed all three of the proposals again and he believes any of the three firms would do a good job. Site Solutions has completed some work in Surry County and Iredell County. Commissioner Moxley has heard great things about the job they did for Surry. **Commissioner Moxley made a motion to authorize the County Manager**

**to negotiate with Site Solutions to provide the Parks and Recreation Study for Yadkin County. Commissioner Hemric second.**

**Vote: 4/0.**

- 4) Possible Appointment of DSS Board Member. Romie Flynn's term is ending June 30, 2011 and he cannot serve again. There were two people who expressed an interest in the DSS Board vacancy. The people were Vice Chairman Frank Zachary and Chad Shore. Chad Shore also listed an interest in being appointed to the Region 1 Aging Advisory Council. **Commissioner Hemric nominated Vice Chairman Frank Zachary. Commissioner Moxley made a motion to close the nominations and appoint Vice Chairman Frank Zachary to the DSS Board. Commissioner Hemric second.**

**Vote: 4/0.**

- 5) **Vice Chairman Zachary made a motion to amend the Agenda to add "Appoint Region 1 Aging Advisory Council Member" to Board Action. Commissioner Moxley second. Vote: 4/0. Commissioner Moxley made a motion to appoint Chad Shore to the Region 1 Aging Advisory Council. Commissioner Hemric second.**

**Vote: 4/0.**

- 6) Chairman Austin asked that "Set Next Meeting Date" be added to the Agenda. **Vice Chairman Zachary made a motion to amend the Agenda to add "Set Next Meeting Time" to Board Action. Commissioner Moxley second. Vote: 4/0.** The consensus of the Board was to have the Board meeting on July 5, 2011 at 7:00pm so that as many of the Commissioners as possible would be able to attend. **Commissioner Hemric made a motion to set the next Board of Commissioner's Meeting as July 5, 2011 at 7:00pm. Vice Chairman Zachary second. Vote: 4/0.**

#### **CALENDAR NOTES**

- 1) June 23, 2011 - Performance Appraisal Training from 10:00am to 12:00pm in the Board of Commissioners Room.
- 2) July 21, 2011 - Performance Appraisal Training from 10:00am to 12:00pm in the Board of Commissioners Room.
- 3) August 4, 2011 - Performance Appraisal Training from 10:00am to 12:00pm in the Board of Commissioners Room.
- 4) August 11, 2011 - Performance Appraisal Training from 10:00am to 12:00pm in the Board of Commissioners Room.
- 5) August 18, 2011 - Performance Appraisal Training from 10:00am to 12:00pm in the Board of Commissioners Room.

#### **MANAGER'S REPORTS/BOARD ACTION**

- 1) Jonesville Water Agreement. The agreement allows Yadkin County to purchase water from Jonesville in bulk at a lower rate and will save the County money. This agreement will require a fulltime staff position. The consensus of the Board was to have County Attorney Sullivan begin looking at the contract.
- 2) Jim Haynes Retail Development Discussion. Jim Haynes will start aggressively working on retail development in Yadkin County.

#### **MANAGER'S BUDGET AMENDMENTS / NO ACTION REQUIRED**

- 1) Fire Marshall.
- 2) Health.
- 3) Health – WIC.
- 4) Health – Healthy Yadkin.
- 5) Planning.

## **BOARD VACANCIES**

- 1) Nursing Home - Adult Care Home Community Advisory Committee has 2 Vacancies.
- 2) Region 1 Aging Advisory Council had 1 Vacancy that was filled tonight. This vacancy was filled tonight.
- 3) Criminal Justice Partnership Advisory Board has 1 Vacancy.
- 4) JCPC has 1 Vacancy.

## **COMMISSIONER COMMENTS**

**Vice Chairman Zachary** thanked everyone for being here. He said it was a nice opening session with the children from Forbush Elementary School. He is thrilled the meeting tonight is progressing quicker than he thought it would. He appreciated the public coming to speak and stated we had a rather spirited Public Hearing.

**Commissioner Moxley** stated he thought the children from Forbush Elementary School did a great job on leading the Pledge of Allegiance. The zoning request was controversial but the Public Hearing went smoothly enough and it is an issue that needs to be looked at. The timeline for tonight looks good. He is glad to see the public here.

**Commissioner Hemric** thanked everyone for coming, especially the children from Forbush Elementary School who led the Pledge of Allegiance. He really appreciated the people who came. The public voiced their opinion in a civil way and he appreciated the way they conducted themselves.

**Chairman Austin** thanked the children from Forbush Elementary School for coming tonight when they are on summer vacation, that was very nice of them. He stated land use issues are some of the most important decisions that the Board of Commissioners make. He is happy with the new Yadkin County Land Use Plan and was proud to be a part of that process. He and Christopher Ong, the Planning Director, had talked approximately 1.5 years ago about it being time to begin the process of updating the Land Use Plan. The new plan is very detailed and will help us in the future. He invited everyone to come to the Yadkinville 4<sup>th</sup> of July celebration. The parade will start at 3:00pm.

**Interim County Attorney Sullivan** had no comment.

**Chairman Austin made a motion to go into Closed Session pursuant to (1)(3)(4)(5)(6) NCGS 143-318.11(a) in order to discuss Personnel Matters and to Protect Personnel Information that is Confidential under NCGS 153A-98, to discuss the potential Location or Expansion of Industries or other Businesses in the County, to Establish the County's Negotiating Position for Acquiring Real Property and to Instruct the County Staff on that Position, and to have a Privileged Consultation with the County Attorney about the lawsuit of Yadkin County vs. Yadkin County Board of Adjustment, James Davis Arnold, Eddie Dean Arnold, and William Turner Arnold. Commissioner Moxley second.**

**Vote: 4/0.**

After a motion to come out of Closed Session was made and the Board was in Open Session, **Chairman Austin made a motion to extend the meeting. Commissioner Moxley second.**

**Vote: 4/0.**

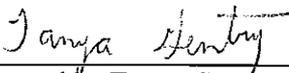
**Chairman Austin made a motion to increase the County Manager's Salary for the upcoming year, effective July 1, 2011, to \$81,500.00 and increase the travel allowance to \$500.00 a month and to pay a bonus for the current year of \$6,500.00. Vice Chairman Zachary second.**

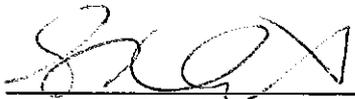
**Vote: 4/0.**

**Commissioner Hemric made a motion to enter into a contract with Bobby Sullivan, not to exceed \$6,500.00 per condemnation, for up to three (3) condemnation cases through mediation and if it does go through trial the not to exceed amount is \$13,000.00. Commissioner Moxley second.  
Vote: 4/0.**

**Commissioner Moxley made a motion to enter into a contract, not to exceed \$10,000.00, with Brian Cromwell with Parker Poe to conduct an internal investigation. Vice Chairman Zachary second.  
Vote: 4/0.**

**Commissioner Moxley made a motion to adjourn. Vice Chairman Zachary second.  
Vote: 4/0.**

  
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Prepared by Tanya Gentry  
Deputy Clerk to the Board

  
\_\_\_\_\_  
Kevin Austin, Chairman  
Yadkin County Board of  
Commissioners

4/5/11  
\_\_\_\_\_  
Date approved by the  
Yadkin County Board of Commissioners