

**PERSON COUNTY BOARD OF COMMISSIONERS**  
**MEMBERS PRESENT**

**NOVEMBER 7, 2011**  
**OTHERS PRESENT**

Jimmy B. Clayton  
Kyle W. Puryear  
B. Ray Jeffers  
Samuel R. Kennington  
Frances P. Blalock

Heidi York, County Manager  
C. Ronald Aycock, County Attorney  
Brenda B. Reaves, Clerk to the Board

The Board of Commissioners for the County of Person, North Carolina, met in regular session on Monday, November 7, 2011 at 7:00 p.m. in the Commissioners' meeting room in the Person County Office Building.

Chairman Clayton called the meeting to order, led invocation and asked Commissioner Kennington to lead the Pledge of Allegiance.

**DISCUSSION/ADJUSTMENT/APPROVAL OF AGENDA:**

A **motion** was made by Commissioner Jeffers, **seconded** by Vice Chairman Puryear and **carried 5-0** to approve the agenda.

**PUBLIC HEARING:**

**REQUEST FOR A SPECIAL USE PERMIT FROM ROBERT B. CHEATHAM FOR A PRIVATE RECREATION FOR PROFIT (INTERNET SWEEPSTAKES BUSINESS) ON U.S. 501 SOUTH, DURHAM ROAD:**

A **motion** was made by Vice Chairman Puryear, **seconded** by Commissioner Jeffers and **carried 5-0** to open the duly advertised public hearing for a request for a Special Use Permit from Robert B. Cheatham for a private recreation for profit (Internet Sweepstakes Business) on U.S. 501 South, Durham Road.

Chairman Clayton stated the public hearing set to hear a request for a Special Use Permit from Robert B. Cheatham for a private recreation for profit (Internet Sweepstakes Business) on U.S. 501 South, Durham Road required a quasi-judicial zoning decision whereby witnesses are to be sworn in and subject to cross examination, no ex parte communication and requires findings of fact. Chairman Clayton administered the Oath of Sworn Testimony to the following individuals who would offer testimony during the public hearing:

Paula Murphy

Robert B. Cheatham

Chip King

**November 7, 2011**

Planning Director, Paula Murphy stated the County has received a Special Use Permit request from Robert Cheatham for a private recreation for profit (internet sweepstakes business) on US 501 South, Durham Road. The property is located in a Special Use Overlay District thus requiring a Special Use Permit. The property in question is zoned B-1, Highway Business.

Ms. Murphy noted the site plan which shows the proposed buildings, drives and parking areas. Ms. Murphy stated the proposal is to convert an existing building to an internet sweepstakes business. The building is 20' x 37' (740 square feet) and located on a .388 acre parcel, served by city water and sewer. Access to the site will be off of US 501. The property will be leased from King II Investments, LLC which owns the adjacent property to the north and west. There is an existing fifty foot easement directly to the south of the property. The plans show 14 parking spaces (one per terminal and one per employee – one employee per shift). Since this is a change of use, it will require approval from the Building Inspections Department.

**Physical Characteristics:**

Watershed: Located within the Flat River Balance of Watershed, WSIII which allows up to 70% built upon area for all residential uses other than single family provided minimize built upon area, direct stormwater runoff away from surface waters and incorporate practices to minimize water quality in ten percent of the watershed. The plans show an impervious calculation of 96.1 percent. Ms. Murphy stated the property was existing prior to the adoption of the Water Supply Watershed Protection Requirements, therefore, was grandfathered.

Flood Hazard: There are no 100 year flood areas on the property.

**Character of the Surrounding Area:**

The property in question consists of .388 acres. The surrounding area consists mainly of commercial type uses, convenience mart, bank, mini-storage facility, Palace Pointe, Cambridge Hills Assisted Living, solar farm and a residential structure.

**Ordinance Provisions:**

Article VII, Section 74;

74-1 Special Use Permits may be issued by the County Commissioners for the uses mentioned under the Special Uses as pertains to each district.

- A. An application for a Special Use Permit must be submitted to the Planning and Zoning Department at least four weeks prior to the regular scheduled Planning Board meeting at which it is to be reviewed. Twenty-four copies of the site plan, prepared by a North Carolina registered land surveyor, engineer or architect, shall accompany the application. The plan, drawn to scale, shall depict the following;
  - 1) The boundary of the lot(s) to be developed labeled with bearings and distances, total gross land area, location of easements, utilities, adjacent road names and numbers;

- 2) Name of the project, property owner and applicant, vicinity map, north arrow, scale, date of plan preparation and subsequent revisions dates;
- 3) Topography of site, at contour interval no greater than ten feet, location of perennial and intermittent waters, 100 year flood plains;
- 4) Location and approximate size of all existing and proposed buildings and structures within the site and existing buildings and structures within five hundred feet adjacent thereto;
- 5) Proposed points of ingress and egress together with the proposed pattern of internal circulation;
- 6) Existing and proposed parking spaces;
- 7) Proposed provisions for water supply and sewage disposal;
- 8) If the site is located in a designated drinking water supply watershed, the plan shall also:
  - a. depict the location of existing and proposed impervious surfaces and respective totals in square feet.
  - b. The total land area of the lot outside of the road right of way in square feet.

74-2 The Planning Board and County Commissioners shall each hold a public hearing at which all interested persons shall be permitted to testify.

74-3 The Planning Board shall forward its recommendation to the County Commissioners within sixty days after the meeting at which the application is heard.

74-4 On receiving the recommendation of the Planning Board' the County Commissioners shall consider the application and said recommendation and may grant or deny the Special Use Permit requested. The Special Use Permit, if granted, shall include such approved plans as may be required. In granting the permit, the County Commissioners shall find:

1. that the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved.
2. that the use meets all required conditions and specifications.
3. that the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity, and
4. that the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the comprehensive plan.

74-5 In granting the permit, the Planning Board may recommend and the County Commissioners may designate such conditions, in addition and in connection therewith, as well, in its opinion, assure that the use in its proposed location be harmonious with the area in which it is proposed to be located and with the spirit of this ordinance. All such additional conditions shall be entered in the minutes of the meeting at which the permit is granted and also on the certificate of the Special Use Permit or on the plans submitted therewith. All specific conditions shall run with

the land and shall be binding on the original applicants for the Special Use Permit, their heirs, successors and assigns.

- 74-6 If the Planning Board recommends the disapproval of the Special Use Permit, and the County Commissioners denies the permit, each body shall enter the reasons for its action in the minutes of the meeting at which the action is taken.
- 74-7 No appeal may be taken to the Board of Adjustment from the action of the County Commissioners in granting or denying a Special Use Permit. Any such action by the County Commissioners shall be considered as the equivalent of action on a proposed zoning amendment and shall be reviewed only in the same manner as action on a proposed amendment.
- 74-8 In addition to the specific conditions imposed by the regulations in this Article and whatever additional conditions the County Commissioners deem reasonable and appropriate, special uses shall comply with the height, yard, area and parking regulations for the use district in which they are permitted unless otherwise specified.

Section 160-5(B) of the Zoning Ordinance states: “The Planning Board shall provide a written recommendation to the Board of County Commissioners that addresses that the proposed amendment is consistent with the comprehensive plan, but a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Board of County Commissioners. Prior to adopting or rejecting any zoning amendment, the Board of County Commissioners shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and why such action is reasonable and in the public interest. The Land Use Plan has this area listed as Office and Institutional/Commercial which states “Commercial uses, office and public/institutional uses, light industrial, limited residential uses. Residential uses can be located near non-residential uses with appropriate buffers. Development should be limited to areas identified for economic development and with public water and sewer.” Since this is an existing commercial development along US 501, there were no goals or objectives within the Land Use Plan that applied.

Ms. Murphy stated the Board can ask for any of the following items to be addressed in order to form a better decision on this request:

- 1) What type of games?
- 2) Who will be the operator of the establishment?
- 3) Will this establishment have an age limit (ie. Only over 21)
- 4) Will this establishment serve food and/or alcohol?
- 5) A schematic drawing of the interior showing each station and the area. Can limit the number of machines per square footage.
- 6) What are the proposed hours of operation?
- 7) Will there be surveillance cameras?
- 8) Does the Board feel that the parking is sufficient and are the drives wide enough for traffic to flow unimpeded. The plans show one way traffic around the building; staff is not sure how this will be accomplished.

Ms. Murphy stated if the Board decided to grant approval of the Special Use Permit, the following conditions should be included:

1. Applicant to obtain a zoning permit and a building permit from Person County
2. Letter from the City of Roxboro approving City water and Sewer required prior to obtaining a Zoning Permit.
3. Applicant to follow the site plan approved by the Board.
4. Any conditions deemed appropriate by the Board

Ms. Murphy stated the Board also needs to address the findings of fact in Section 74-4 and how this proposal is in keeping with the Land Use Plan.

Ms. Murphy stated the Planning Board held a Public Hearing on October 13, 2011 and voted 4-0 to recommend approval with the following conditions and staff comments:

1. No alcohol sold or consumed on the premises.
2. No check cashing or loans.
3. No one under the age of 21.
4. Video cameras in working order for surveillance.
5. All zoning and building permits to be obtained.
6. Interior design "to scale" to be approved by Building Inspections.
7. Limit to 13 machines and 13 parking spaces (one for each machine) and an additional parking space for an employee.
8. No hours of operation between midnight and 8am.

The Planning Board noted the project was in keeping with Section 74-4 and the Comprehensive Plan.

Ms. Murphy stated Planning Staff feels that the following conditions should be considered:

1. Business to be in keeping with all local, state and federal laws.
2. The property shall be subject to periodic inspections by the County Building Inspections, Planning Department, Fire Marshal, and law enforcement agencies.

Ms. Murphy offered to answer any questions noting the applicant and the owner of the property are also present.

Commissioner Jeffers asked Ms. Murphy why the surveillance cameras and Ms. Murphy replied mainly to have something in case something happens on the property, like a public safety type thing that the Planning Board looked at.

Commissioner Jeffers asked Ms. Murphy if that is something Person County normally does with special use permit noting he had never seen that in any permit that has come before the Board. Ms. Murphy replied she did not know that Person County has had anything quite like this that Person County would put that particular condition on there.

Commissioner Jeffers asked Ms. Murphy if she had checked with the City on what they allow in their ordinance as he felt they did develop something for this type of business. Ms. Murphy replied they do have it noting she looked at some of the other conditions that are in other areas, further noting she did not look at the City.

Commissioner Jeffers said we don't know if the City allows anyone under the age of 21. Mr. Cheatham spoke from the audience and said no one is allowed under the age of 18. Commissioner Jeffers said it is 18 literally to do this per the State or whoever sets the rule, so why did the Planning Board say 21. Ms. Murphy said she did not know why they picked 21 but that is what the Planning Board wanted (the age of 21).

Commissioner Jeffers stated if limited to 13 machines and it is suggested for the Board to ask the number of machines per square footage so with 13 machines what would be the square footage. Ms. Murphy stated they did not know because we don't know what size nor how they are laying it out in the building. Commissioner Jeffers asked how they came up with the number of 13 machines. Ms. Murphy stated Mr. Cheatham put on his site plan there is 13 machines and Planning is doing one parking space for each machine.

Commissioner Jeffers asked Ms. Murphy for the hours of operation that Planning is suggesting is nothing between midnight and 8:00 am, asking if the ones in the City of Roxboro, don't they operate after midnight. Ms. Murphy stated she was not sure. Mr. Cheatham stated they are open until 4:00 a.m.

Commissioner Jeffers asked Ms. Murphy why Planning didn't check with the City of Roxboro, if they are the only municipality in the county. Ms. Murphy stated she had a bunch of other places that were already available and honestly did not think about the City.

The following individuals appeared before the Board to speak in favor of the request for a Special Use Permit from Robert B. Cheatham for a private recreation for profit (Internet Sweepstakes Business) on U.S. 501 South, Durham Road:

Mr. Robert (Bobby) Cheatham of 268 Little Duck Lane, Roxboro, a resident of Hyco Lake, Person County for the last 4 years and applicant of the Special Use Permit. Mr. Cheatham stated he had known and been involved with Chip King for the last 10 years in one capacity or another. Mr. Cheatham stated he has been in the business for about 5 years. Mr. Cheatham stated he has a letter of testament from his last landlord. Mr. Cheatham stated he went before the Halifax County Board, a pretty rigorous county up in Virginia, ran a business the last 4 ½ year without a complaint, not one lodged against him. Mr. Cheatham stated his landlord was a police officer and his father knew everybody on the county commissioners. Mr. Cheatham stated he was the only person in Halifax County the last 4 years and never had one complaint, not one against him. Mr. Cheatham stated he opened at 2:00 pm and closed at 9:00 pm, no alcohol absolutely, age 18 or 21 makes no difference to him, 98% of his people that play, 50 loyal customer that call him every day wanting to play are between 40-50-60 years old. Mr. Cheatham stated he does not have anyone playing in their 20-30s so it is irrelevant. Mr. Cheatham stated it is a play to stay, internet café service with about 50 loyal customers from Halifax and South Boston that are going to play and want to come down here. Mr. Cheatham stated on the positive side, he would like to occupy Chip King's building that has been an eyesore out there about 3 or 4 years. Mr. Cheatham stated he would be hiring 3-4 Person County employees, two ladies in their 40-50s, four ladies, and will bring his 40-50 of his customers from Halifax County and South Boston down here to turn things around. In 1986, Virgilina was the second, #2 lottery sales in the State of Virginia behind Richmond, then all of a sudden, all people in Roxboro and Durham, went up 49 to Virginia. As he sees it now, everybody can come from Virginia down here to spend money in Roxboro. When they come to his place, he will be the operator and will be there – all the other ones in Roxboro he is familiar with, they are owned by Rick and Roger Moore and live north of Charlotte, and not even been in the place and if they have, they haven't been in there much. Mr. Cheatham stated he will be there every day and there will be no trouble. There will be cameras there for his safety and for his employees' safety with no on hanging around. Mr. Cheatham stated he would talk to the Sheriff, if he needs an employee out there, he will but feels he won't need because he will be there noting there will not be any trouble further noting these people will not start any trouble. Mr. Cheatham stated the one kick he has is that most of his competitors have 50 machines and with the 14 parking spaces, he noted he was not familiar with the ordinance the county has, the ladies don't come out by themselves, they come with 2-3 to a car, especially if they come from South Boston and Halifax. Mr. Cheatham stated if he has maybe 10 cars, he will have 3 or 4 cars will fill up his machines and he doesn't want people to pull up and can't play as they will leave and not come back. Mr. Cheatham stated he would like to have the ability to have 20 machines. Mr. Cheatham noted the tables are 2x5 around the outsides of the building with 2-3 computers/monitors on each thing with the whole middle of the room is open, so there is no square footage problem just computers around the wall for an internet cafe. Mr. Cheatham stated these people who like to play the internet cafes will buy lottery tickets; Chip King's lottery sales will explode and ride back through the center of Roxboro and will eat at the restaurants and buy gasoline, reverse for what they have been doing for years taking NC money to Virgilina; no longer going to Virgilina as they are gonna play so they call all the time

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wanting to come down here to play. Mr. Cheatham stated he has customers here in Rougemont and Timberlake, people now going to Durham to play, access to one in Durham with his partner with lots of Roxboro, Rougemont and Timberlake players up there so it will fill a place. Mr. Cheatham stated there will be no advertising, no big signs as there is not need for them. Mr. Cheatham noted the Board does not play and he does not play but there are people who like and it and by word of mouth and they will find it so there is no need for signs. Mr. Cheatham stated he will probably open at 12:00 noon, used to open up at 2:00 pm, and close at 10:00 pm with lights out by midnight. Mr. Cheatham noted if open past midnight, somebody will get fired. Mr. Cheatham stated if they want to play at 3:00-4:00 am they can go to his competitors. Mr. Cheatham stated he had not opened on Sundays for 3 years but they have finally talked him into opening on Sundays, and if he does open on Sundays, Southern Baptist, he would open at 2:00 pm and close at 6:00 pm or 8:00 pm, noting he probably would not open up on Sundays unless they wanted him to, if allowed to run. Mr. Cheatham asked the Board if there were any questions.

Commissioner Kennington stated he would like to ask the 8 questions recommended by the Planning Board.

Commissioner Kennington asked Mr. Cheatham what type of games was he talking about. Mr. Cheatham stated internet café games noting there are about 5 different systems when running a business, HESTEC is the oldest and the most legal system. There are two systems, IT and HESTEC that are the ones in litigation and they are deemed legal. They are the ones declared to be run legal out of Texas and Oklahoma. There are about 10 different systems but these are the 2 biggest, oldest, most legal sweepstakes that have been run the longest.

Commissioner Kennington asked Mr. Cheatham if this is gambling. Mr. Cheatham stated it is as legal as the day is long. They have them around the legislature in Raleigh, Wake County, Wake City, Durham County, Durham City, and downtown Roxboro (150 machines in Roxboro running the last 3-4 years). Absolutely legal, otherwise he would not do it and if it is illegal, he would be the first to go. Mr. Cheatham stated the first minute it is illegal, the County Attorney can call him, he would be the first to go. Right now it is legal and he will run properly and if not so, tell him and he will change it.

Commissioner Kennington asked Mr. Cheatham if this is legal gambling. Mr. Cheatham stated it is not gambling whatsoever noting gambling is illegal. Commissioner Kennington asked Mr. Cheatham is the lottery is illegal. Mr. Cheatham stated it is illegal but deemed legal because of the Education Lottery went 20% which goes into education.



Commissioner Blalock asked Mr. Cheatham if his was under the appellate court. Mr. Cheatham stated they are all deemed legal in the State of NC and the appellate court is why they are deemed legal. Mr. Cheatham stated he went to a big meeting in Greensboro and they will let you run whatever wanted the next 2 ½ years and the State of NC is going to take it over, lock, stock and barrel, seize the industry and take it off in sales to get their own machines. Mr. Cheatham stated once they have worked to get the clientele the State is going to take it, put it under the lottery and take it away from them noting that is what he has heard from the big boys in Greensboro.

Commissioner Kennington asked Mr. Cheatham the age limit to enter. Mr. Cheatham stated 21 declaring on his mother's grave, he can not remember the last one he had playing in their 20s-30s. Mr. Cheatham stated 21 is fine and he has a sign that has 18 on it but he will put 21 on it noting it is not a place for kids to hang around, further noting, you have to play to stay. Mr. Cheatham stated most of his players are ladies, they don't want the crowd around there. Mr. Cheatham stated once he locks the doors after sunset, he would have to know them to allow them in and will run like a tight ship.

Commissioner Blalock asked Mr. Cheatham if his clientele would be coming from Virginia. Mr. Cheatham stated he had a pretty loyal clientele over the past 4 ½ years and they call him all the time wanting to come down and asking when he will open back up so he will have some Virginia money coming down plus he hopes to have get some Roxboro and Person County people too. Commissioner Blalock stated when she heard about this and read, she felt she needed to know more about it, so she went and visited 2 internet cafes today and she looked to see who was being served and they were not little old ladies, they were people who seemed to need their money. Commissioner Blalock stated she talked with the girl and she said many of them come in and it is addicting for some and that some of them spend their light money. Mr. Cheatham stated morality could not be legislated and asked who are we, if people want to play a legal business, if they like liquor stores on the side of the roads, playing the lottery which is the biggest form of gambling he ever seen, stock brokers playing the stock market is gambling, to say when a person chooses to spend their 40 cents to play or not, was his only defense on that.

Commissioner Kennington asked Mr. Cheatham if food and/or alcohol would be served. Mr. Cheatham stated absolutely no alcohol. Mr. Cheatham stated if anyone is drinking or even smell of alcohol, they will be sent to the parking lot and asked to leave the premises and cited for trespassing if they come back. Mr. Cheatham stated he would not call the police as that went against the record. Mr. Cheatham stated it would be a non-issue as he would be there. Mr. Cheatham stated he served potato chips and drinks at his last one but we will not do that on this one because he was going through about \$100 a week for free snacks for his players/customers but with Chip King selling at his Seven-Eleven, he won't do it and just purchase from over there.

Commissioner Kennington asked Mr. Cheatham to repeat his hours of operation. Mr. Cheatham stated probably like 9:00 am to 9:00 pm noting his competitors are running from 9:00 am to 3:00 or 4:00 am which is a no can do for him. Mr. Cheatham stated he would open at 12:00 noon and depending on the customers, close at 10:00 p.m. Mr. Cheatham stated in South Boston, that his hours were from 2:00 pm to 1:00 a.m. for 3 years, then went to closing by 11:00 pm with lights out by midnight every night. Mr. Cheatham stated he would be closed by midnight and if they want to play longer than that, they can go to his competitors and come back the next day. Commissioner Kennington asked Mr. Cheatham if he would be open on Sunday. Mr. Cheatham stated it would be 4:00 p.m. to 8:00 p.m. if the customers are asking for it noting it took him 3 ½ years to open on Sunday up there, doubting he would do it here.

Commissioner Kennington asked Mr. Cheatham about surveillance cameras. Mr. Cheatham stated he would have those for the safety of his self and his employees.

Vice Chairman Puryear asked Mr. Cheatham how many people would he employ. Mr. Cheatham stated probably 3 or 4, ladies, 2 white and 2 black 40-50 years old noting ladies like ladies working there.

Mr. Chip King of 294 Wild Turkey Drive, Semora, and landowner for the internet café, thanked the Board for allowing him to speak. Mr. King expressed his approval of what Mr. Cheatham is planning on doing and they have been over the law and it seems to be a fitting use of that property as he hasn't had a lot of people beating the doors down wanting to rent buildings around lately so anytime somebody comes with a business idea that he thinks would work, he is in support of it. Mr. King stated he had been pretty clear with Mr. Cheatham about what he expects on his property and the type of business he runs will be extended through to him. Mr. King stated his appreciation if the Board would see fit to approve this request for Mr. Cheatham.

Commissioner Jeffers asked Ms. Murphy the vote at the Planning Board Public Hearing on October 13, 2011. Ms. Murphy stated they only had 4 members show up they all voted yes. Commissioner Jeffers asked Ms. Murphy if there was any public at the Public Hearing. Ms. Murphy stated no.

Chairman Clayton asked Ms. Murphy how they figured out to get 13 machines. Ms. Murphy stated it was on the site plan.

Mr. Cheatham stated he did not think there was an ordinance concerning internet cafes. Mr. Cheatham requested permission to run at least 20 machines which is less than half of what his competitors and he wanted to have machines available when folks drive there to play. Mr. Cheatham said 20 is a good round figure and enough for the spaces noting if he has 8-10 cars he and Chip would be smiling from ear to ear.

Clayton Chairman asked Ms. Murphy where she got the number from again. Ms. Murphy stated 13 spaces was shown on the site plan; shows on there it will be 13 computers/stations and Planning put down 1 parking space per terminal.

Commissioner Jeffers asked Ms. Murphy why was there a staff comment to limit the number of machines per square footage when she did not know the square footage. Ms. Murphy stated they did not know what the square footage was in there but more to look at to see if he could put in 13 and it is more a Building Inspections item than it is Planning because they have to have room to move around noting it is a small building inside and Planning did not know what the table sizes were, that type of thing, whether they would fit into the small space. Mr. Cheatham stated he could answer noting he was in a building half this size and he had 28 machines in Halifax for about 5 years. Mr. Cheatham stated it is 5 feet from the back of the chair to the wall, 5 on each side leaves 12 feet in the middle, can drop a car in there. Mr. Cheatham stated as far as the parking lot, 6 tractor trailers can be placed side by side on the pavement behind his cars.

Chairman Clayton asked Ms. Murphy if the county has anything in the ordinances that addresses internet café or so many computers/terminals per foot. Ms. Murphy confirmed the county does not address internet cafés or many how computers are limited per foot in any county ordinance.

Chairman Clayton asked Ms. Murphy if the Planning Board and Staff decided it was 13 computers based on the parking spaces. Ms. Murphy stated they could look at it as parking spaces per square footage in the building but it is not exactly accurate when there are 13 people that could be playing the game plus an employee and they don't all have to come together and the lot is small.

Commissioner Jeffers commented to Ms. Murphy that the county doesn't know what the City of Roxboro does because there was not a comparison to them, correct. Ms. Murphy stated she did not compare because she had a lot of ordinances from other localities.

Mr. Cheatham pointed out there are 6 parking places to about 30 machines next to Dream Works plus they have 3 businesses on both sides. Mr. Cheatham noted there are 50 machines and about 20 parking spaces at another location and on 158 there is probably 30 machines with about 20 parking spaces. Mr. Cheatham noted in all the places they have at least three to four times as many machines as they have parking places. Mr. Cheatham stated he needed at least 20 machines to handle the customers based on past experience.

Commissioner Kennington asked Ms. Murphy what the maximum number of people that the Fire Inspector wants in a building that size. Ms. Murphy stated Building Inspections will look at it a little bit more as far as how it is laid out noting she talked with them today and depends on how many people you get in there whether you have to have 2 handicap bathrooms.

Commissioner Jeffers asked Ms. Murphy is it customary for them (Inspections) to do that after the Board approves something like this or should they have done that before. Ms. Murphy stated it could be done either way and preference is to see it before that way staff could give the Board a better idea of what is going on and whether it works. Ms. Murphy confirmed for Commissioner Jeffers that she had been speaking to Inspections all along the way. Commissioner Jeffers asked when would Inspections look at it. Ms. Murphy stated they have not received the plans for the interior of the building. Commissioner Kennington asked Ms. Murphy if they had asked for that noting one of the staff comments was that they asked for the scale drawing but up to date not received those, is that right. Ms. Murphy confirmed affirmatively. Commissioner Kennington asked Ms. Murphy when did she ask for that. Ms. Murphy stated it was requested before it went to the Planning Board. Mr. Cheatham stated he talked to Inspections today noting he would have it with him tonight, returning it to Chip and taking it back in the morning.

There was no one present that appeared before the Board to speak in opposition to the request for a Special Use Permit from Robert B. Cheatham for a private recreation for profit (Internet Sweepstakes Business) on U.S. 501 South, Durham Road.

A **motion** was made by Commissioner Jeffers, **seconded** by Vice Chairman Puryear and **carried 5-0** to close the public hearing for a request for a Special Use Permit from Robert B. Cheatham for a private recreation for profit (Internet Sweepstakes Business) on U.S. 501 South, Durham Road.

**BOARD CONSIDERATION FOR A SPECIAL USE PERMIT REQUEST FROM ROBERT B. CHEATHAM FOR A PRIVATE RECREATION FOR PROFIT (INTERNET SWEEPSTAKES BUSINESS) ON U.S. 501 SOUTH, DURHAM ROAD:**

Chairman Clayton commented that the Planning Board recommended the request by unanimous vote noting Mr. Cheatham was comfortable with age limit of 21 but questioned the limit of 13 machines especially with no regulating ordinance. Chairman Clayton noted his support of allowing 20 computers and not making so much difference with parking spaces.

Commissioner Jeffers commented the vote is not relative to supporting the type of business as his review is the same as any other business being established. Commissioner Jeffers stated his desire that the item should have been compared to the City of Roxboro as well as have more information on the staff comments noting his support of the 20 machines to be allowed further noting the age limit of 21 should not be the precedent for others requesting the same business due to not having an ordinance.

Commissioner Kennington stated support to postpone action for further information and to review the City of Roxboro's ordinance and hear back from the Fire Inspector for that size building based on the prospective owner turning in a to scale model showing the location of the machines.

Commissioner Blalock stated support to see a schematic of the lay out and noted her concern of the use as a questionable business.

Vice Chairman Puryear stated it is a legal business and opposed placing more obstacles for people to start a small business in the county. Vice Chairman Puryear stated support of 20 machines.

Commissioner Jeffers spoke against postponing action due to an error on the county's end, not the applicant's.

Mr. Cheatham stated he had already waiting 90 days, reiterating his need for 20 machines compared to sites in the City with 50 machines.

County Manager, Heidi York reminded the Board they would have a meeting on Monday, November 14, 2011 should the Board wish to have additional information.

Vice Chairman Puryear commented that questions should have been raised before this meeting.

Commissioner Kennington requested the County Attorney for a ruling of law on NC General Statute 14-306.4. County Attorney, Ron Aycock told the Board that General Assembly has tried several times to restrict operation of such business but not allowed to do so due to a constitutional challenge.

Mr. Aycock noted there is a lawsuit brought in Wake County attempting to prohibit the business whereby a Judge ruled that the law as passed by General Assembly was effected to prohibit any of these operations anywhere in the State of NC. Mr. Aycock noted in Wake County, clearly prohibited.

Mr. Aycock stated there was also a lawsuit brought to prohibit the business in Guilford County whereby the Judge ruled the General Assembly was only successful in the way they wrote the law to prohibit specific types of activities, i.e. Pot-of-Gold based on random chance of matching different pictures further ruling the entertaining display and any other video not dependent upon skill was not sufficient so a person knew what being prohibited. Mr. Aycock continued to state the ruling could not prohibit any of the other entertaining displays, not specified. Mr. Aycock noted in Guilford County, aside from the specifically named that are prohibited, it is allowed.

Mr. Aycock stated both of the above cases are on appeal to the Court of Appeals which may be argued soon (not restricted to any scheduled date to render an opinion).

Mr. Aycock stated Person County is in a situation whereby it is not stated that it is illegal in Person County so long as any operator in Person County does not operate a specifically named prohibited game, it is legal right to run the game.

A **motion** was made by Commissioner Jeffers, **seconded** by Vice Chairman Puryear and **carried 3/2** to approve the request for a Special Use Permit from Robert B. Cheatham for a private recreation for profit (Internet Sweepstakes Business) on U.S. 501 South, Durham Road subject to the conditions as presented by Planning Staff with the only change from the conditions is to allow 20 machines. Commissioners Blalock and Kennington voted in opposition to the motion.

#### **INFORMAL COMMENTS:**

The following individuals appeared before the Board to make informal comments:

Ms. Sharon Slaughter of 1378 Bowen Road, Rougemont, and representing over 1,900 tax paying residents of Person County, presented a petition to the Board and county government to end all uses of gas chambers at Person County Animal Shelter and requested that euthanasia by injection be the only method used for those animal not fortunate enough to be adopted or reclaimed. Ms. Slaughter further requested by petition for the gas chamber to be removed from Person County property stating studies show that gas chambers cost more money, are cruel to animals and potentially harmful to workers.

Ms. Margaret McMann, Tourism Development Authority Director stated appreciation of the Board's recent support of the Shop-Eat-Enjoy initiative sponsored by the Roxboro Development Group and proceeded to hand out informative brochures illustrating the businesses participating.

#### **APPROVAL OF MINUTES:**

A **motion** was made by Vice Chairman Puryear, **seconded** by Commissioner Blalock, and **carried 5-0** to approve the minutes of October 17, 2011

#### **TAX ADMINISTRATIVE REPORT:**

A **motion** was made by Vice Chairman Puryear, **seconded** by Commissioner Jeffers, and **carried 5-0** to approve the Tax Administrative Report noting the Releases for the month of September, 2011.

**OLD BUSINESS:  
FRAUD POLICY:**

County Manager, Heidi York stated at the Board's October 3<sup>rd</sup> meeting, the proposed Fraud Policy was discussed. During that discussion the Board was interested in making the Policy applicable to Board-appointed boards and commissions. The proposed Policy was written as a best practice and at the recommendation of the County's auditors and is intended to apply to Person County Employees only. The public is needed as a resource to report potential fraud, but at the recommendation of the County Attorney, a separate policy that would apply to volunteers of County-appointed boards and commissions is needed. Ms. York stated the County Attorney has suggested drafting language for a proposed Ethics Policy that applies to boards and commissions if the Board desires.

Ms. York highlighted the current proposed Fraud Policy noting the purpose, "The purpose of this Policy is to affirm that fraud and corruption will not be tolerated and to define the consequences of fraud and corruption. It also sets out the framework to ensure a timely and appropriate response to instances of alleged fraud or corruption." Ms. York stated staffs' intent that this document provides an easy means to employees as well as the public to report any instances of fraud or potential fraud that may prevent and minimize financial losses. The Fraud Policy:

- defines fraud and related behavior
- develops procedures for the prevention, reporting, investigation, and consequential actions of fraudulent activities
- makes known the various reporting options for employees and public

Ms. York requested the Board to review the proposed Fraud Policy for Person County and adopt if appropriate as well as direct the County Attorney to draft an Ethics Policy for boards and commissions that could address fraud for those volunteers.

A **motion** was made by Vice Chairman Puryear, **seconded** by Commissioner Jeffers and **carried 5-0** to approve the Fraud Policy as presented as well as direct the County Attorney to draft an Ethics Policy for boards and commissions that could address fraud for those volunteers.

**NEW BUSINESS:**

**VETERANS DAY 2011 PROCLAMATION:**

Chairman Clayton informed the group that on Friday, November 11, 2011, a Veterans Day parade would begin at 10:30 am at the Museum of History with an unveiling ceremony of the Korean War Monument at 11:00 a.m. Chairman Clayton read the Veterans Day 2011 Proclamation for Board adoption.

A **motion** was made by Vice Chairman Puryear, **seconded** by Commissioner Jeffers and **carried 5-0** to adopt the Veterans Day 2011 Proclamation.

**PROCLAMATION BY**

**Person County Board of Commissioners**

**Veterans Day 2011**

**WHEREAS,** Person County would like to commemorate November 11, the anniversary of the ending of World War I, by paying tribute to the heroes of that tragic struggle and by rededicating ourselves to the cause of peace; and

**WHEREAS,** in the intervening years the United States has been involved in other great military conflicts, which have added millions of veterans living and dead to the honor rolls of this Nation; and

**WHEREAS,** the Congress passed a concurrent resolution in June 4, 1926, calling for the observation of the November 11 with appropriate ceremonies, and later provided in an act approved May 13, 1938, that the eleventh of November should be a legal holiday and should be known as Armistice Day; and

**WHEREAS,** in order to expand the significance of the commemoration and in order that a grateful Nation might pay appropriate homage to the veterans of all its wars who have contributed so much to the preservation of this Nation, the Congress, by an act approved June 1, 1954, changed the name of the holiday to Veterans Day.

**THEREFORE,** the Person County Board of Commissioners, in keeping with the time honored tradition of recognizing and honoring our veterans, do hereby call upon the citizens of Person County to participate in services and to observe the eleventh hour of the eleventh day of the eleventh month with expressions of gratitude to all veterans known to them and to further extend this gratitude to the families of deceased veterans and to solemnly remember the sacrifices of all those who fought so valiantly, on the seas, in the air, and on foreign shores, to preserve our heritage of freedom, and let us re-consecrate ourselves to the task of promoting an enduring peace so that their efforts shall not have been in vain.

Adopted this the 7<sup>th</sup> day of November, 2011.



*Jimmy B. Clayton*  
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Jimmy B. Clayton, Chairman  
Person County Board of Commissioners

*Brenda B. Reaves*  
\_\_\_\_\_  
Brenda B. Reaves, NCCCC, CMC  
Clerk to the Board

County Manager, Heidi York noted county offices would be closed on Friday, November 11, 2011 in observation of the Veterans Day Holiday.

**November 7, 2011**



## **CONSIDERATION OF APPROVAL OF LATE EXEMPTION APPLICATIONS:**

Tax Administrator, Russell Jones told the Board that every year, the tax office receives applications for Seniors that are age 65 by January 1, 100% service related Disabled Citizens, Honorably Discharged Veterans, and Circuit Breaker (income and home ownership requirements) exemptions that fail to meet the June 1<sup>st</sup> deadline. Mr. Jones stated in an effort to help inform the public of these exemptions, the tax office mailed information along with the listing forms to 5,594 citizens. The tax office has also developed brochures for all three exemption programs which made these programs easier to understand, and passed out over 500 copies. Mr. Jones noted these efforts resulted in 88 new applications, with 66 approved applications, 14 denied applications (12 were over the income limit, 1 was not 65 as of January 1<sup>st</sup>, and 1 did not own their home), and 8 late applications.

Mr. Jones stated the 8 late applications would have been approved if they had been received by the tax office by June 1<sup>st</sup>. These applications met all requirements, however since they were late; the late applications could not be approved by the tax office. The Board of Commissioners may approve late applications if received by December 31<sup>st</sup>. Since the late applications met all guidelines (other than the application deadline) Mr. Jones recommended Board approval.

Mr. Jones highlighted a spreadsheet provided to the Board that outlined the tax impact and the reasons for the late applications. The actual applications were not provided since they include social security numbers and income information.

Mr. Jones noted Person County has 672 properties that are receiving benefit from these exemptions, which does not include the 8 applications submitted for Board consideration for approval.

A **motion** was made by Commissioner Blalock, **seconded** by Vice Chairman Puryear and **carried 5-0** to approve the 8 late exemption applications as presented by the Tax Administrator.

## **PERSON AREA TRANSPORTATION SYSTEM POLICIES (1) ZERO TOLERANCE DRUG AND ALCOHOL TESTING POLICY, AND 2) DRUG AND ALCOHOL TESTING POLICY:**

Transportation Director, Kathy Adcock stated the NC Department of Transportation (NCDOT) made requirement changes and changed the wording of their policy, therefore, an updated policy is needed to be adopted by the Board in order to maintain compliance with NCDOT. Changes are as follows:

### **Zero Tolerance Drug & Alcohol Testing Policy:**

Page 6. Substance Abuse Professional (SAP): changed wording to add state-licensed marriage and family therapist to the section.

Page 15. Section i: NCDOT now requires the consent from all applicants to give all FTA drug and alcohol reports from previous NCDOT-covered employers for the last two years.

**Drug & Alcohol Testing Policy:**

Page 5. Substance Abuse Professional (SAP): changed wording to add state-licensed marriage and family therapist to the section.

Page 15. Section i: NCDOT now requires the consent from all applicants to give all FTA drug and alcohol reports from previous NCDOT-covered employers for the last two years.

A **motion** was made by Vice Chairman Puryear, **seconded** by Commissioner Blalock and **carried 5-0** to approve and adopt the Zero Tolerance Drug & Alcohol Testing Policy and the Drug & Alcohol Testing Policy as presented by the Transportation Director.

**BUDGET AMENDMENTS:**

Finance Director, Amy Wehrenberg presented and explained the following Budget Amendment.

Upon a motion by Commissioner Jeffers, and a second by Commissioner Blalock and majority vote (5-0), the Board of Commissioners of Person County does hereby amend the Budget of the Fund(s) listed below on this, the 7th day of November 2011, as follows:

<u>Dept./Acct No.</u>	<u>Department Name</u>	<u>Amount</u> Incr / (Decr)
<u>EXPENDITURES</u>	<u>General Fund</u>	
	Public Safety	(14,524)
	Human Services	165,449
	Culture & Recreation	25,252
	Transfer to Other Funds	64,275
<u>REVENUES</u>	<u>General Fund</u>	
	Intergovernmental Revenues	145,862
	Other Revenues	94,590
<u>EXPENDITURES</u>	<u>Person Industries &amp; MRF Fund</u>	27,399
<u>REVENUES</u>	<u>Person Industries &amp; MRF Fund</u>	
	Fund Balance Appropriation	9,736
	Intergovernmental Revenues	8,000
	Other Revenues	9,663

<u>EXPENDITURES</u>	<u>CIP Capital Project Fund</u>	64,275
<u>REVENUES</u>	<u>CIP Capital Project Fund</u> Transfer from General Fund	64,275

**Explanation:**

Reduction in Very Important Parents (VIP) Grant (-\$19,587); United Way funds awarded to VIP (\$2,000); miscellaneous revenues received for VIP associated with a prior year expenditure reimbursement (\$3,063); various grant and program funds received in the Health Department including the Family Planning Grant (\$4,449), Incubator Funds (\$11,000) and School Nurse Funds (\$150,000); a contract between the Person County School System and Person Industries to provide job coaching services at Person High School (\$8,000); vehicle insurance proceeds received for the replacement of a vehicle at Person Industries (\$9,663); fund balance appropriation in the Person Industries Fund to assist in the purchase of replacement vehicle (\$9,736); interfund transactions (for reporting purposes) to the Reappraisal Fund to cover costs associated with the revaluation process (\$143,750); and insurance proceeds received for damage to the Huck Sansbury Gym roof and gym floor (\$89,527).

<u>Dept./Acct No.</u>	<u>Department Name</u>	<u>Amount</u> Incr / (Decr)
<u>EXPENDITURES</u>	<u>General Fund</u>	
	General Government	208,709
	Public Safety	40,515
	Economic & Physical Develop.	4,928
	Environmental Protection	12,331
	Education	146,714
	Transportation	10,504
	Cultural & Recreational	52,732
	Human Services	57,508
<u>REVENUES</u>	<u>General Fund</u>	
	Intergovernmental Revenues	6,384
	Fund Balance Appropriated	527,557
<u>EXPENDITURES</u>	<u>Person Industries &amp; MRF Fund</u>	7,983
<u>REVENUES</u>	<u>Person Industries &amp; MRF Fund</u>	
	Fund Balance Appropriated	7,983

**Explanation:**

Carryforward of purchase orders and commitments outstanding as of June 30, 2011

Commissioner Jeffers asked how the reduction in the VIP Grant would affect Cooperative Extension and the two VIP employees. County Manager, Heidi York noted the state funding reduction would mean the funding stream would end around March, 2012 and at that point the program would be unable to continue.

#### **RECAP OF JOINT SESSION WITH ECONOMIC DEVELOPMENT COMMISSION:**

County Manager, Heidi York asked the Board if there was any further information to follow up to the joint session with the Economic Development Commission. Chairman Clayton requested staffing options from the County Manager. Ms. York passed out copies of the job descriptions for both the current Assistant County Manager role and the previous Community Development Coordinator positions. Ms. York proposed to use the same functional duties from the Community Development Coordinator position and rename to a Coordinator of Strategic Initiatives for implementation of the Strategic Plan, grant writing supporting multiple county departments as well as lend support to economic development, either in an administrative or grant writing capacity. Ms. York noted the Assistant County Manager is tasked with coordinating and oversight of economic development as well as provides administrative management to those departments that impact economic development and quality of life programming for the county.

Vice Chairman Puryear stated the Assistant County Manager position needs to be completely separate from economic development director and the Community Development Coordinator would be a good go between person to assist setting up grants in addition to Strategic Planning and economic development. Vice Chairman Puryear advocated going forward with options for a full time economic development developer as well as a staff member for assistance.

Commissioner Jeffers did not agree with four positions noted by Vice Chairman Puryear but advocated for a combination of both positions to one for the duties of the Assistant County Manager/Community Development Coordinator with separate Economic Development Director requesting further information from other counties for pay grades, pay salary for an economic development director and administrative staff.

Chairman Clayton also requested information to keep the economic development director a separate position.

Commissioner Kennington stated Person County does not have the luxury to hire additional people at this time noting his preference to make the best use of the current personnel. Commissioner Kennington stated preference for the Assistant County Manager with major responsibilities in economic development and a position to include Strategic Planning and grant writing, with both positions reporting directly to the County Manager. Commissioner Kennington agreed that the Board receive cost information.

Commissioner Blalock suggested bringing back the discussion at the next meeting.

Ms. York told the Board she would bring back benchmarks from other competing counties related to an Economic Development Director position with job descriptions and estimated costs.

**CHAIRMAN'S REPORT:**

Chairman Clayton encouraged everyone to remember Person County Veterans.

Chairman Clayton asked Board members for a volunteer to attend a ribbon cutting at B&B Industries (manufacturer of pork rinds) on November 16, 2011 at 10:00 am. Vice Chairman Puryear stated he could attend.

**MANAGER'S REPORT:**

County Manager, Heidi York requested the Board to approve a relocation of the Board of Commissioners November 14, 2011 meeting (9:00 a.m.) from the County Auditorium to the FEMA Room located at 355 S. Madison Blvd (adjacent to the Person County Health Department) to accommodate the Local Government Day lunch to be served in the Auditorium. It was the consensus of the Board to accommodate the request and relocate the November 14, 2011 Board meeting to the FEMA Room as requested by the County Manager.

Ms. York told the Board there would be no agenda for the informal Community Conversations scheduled for November 28, 2011, 6:30 p.m. at the Kirby.

**COMMISSIONER REPORT/COMMENTS:**

Commissioner Kennington had no report or comments.

Commissioner Blalock asked if there was an update from the Board of Education. County Manager, Heidi York noted the Board of Education would be meeting on November 14, 2011 further noting no action has taken place related to the county's request to have the old Helena School property conveyed back to the county. Commissioner Blalock stated November 15, 2011 is America Recycles Day.

Commissioner Jeffers noted he participated in the ribbon cutting for Granddaddy's Restaurant and attended the Council of Governments (COG) meeting where the Vice President of the NC Rural Center spoke related to their upcoming annual Forum on November 15-16, 2011 to which he will be a panelist speaking on why he lives in a rural area. Commissioner Jeffers stated the NC Association of County Commissioners Executive Committee recently met with Governor Purdue and the Commerce Department whereby he advocated the 501 N road project.

Vice Chairman Puryear had no report or comments.

**ADJOURNMENT:**

A **motion** was made by Commissioner Jeffers, **seconded** by Commissioner Blalock, and **carried 5-0** to adjourn the meeting at 8:26 p.m.

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Brenda B. Reaves  
Clerk to the Board

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Jimmy B. Clayton  
Chairman