

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

**NOVEMBER 1, 2010**  
**OTHERS PRESENT**

Johnny Myrl Lunsford  
Jimmy B. Clayton  
Kyle W. Puryear  
B. Ray Jeffers  
Samuel R. Kennington

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 1, 2010 at 7:00 p.m. in the Commissioners' meeting room in the Person County Office Building.

Chairman Lunsford called the meeting to order and asked Commissioner Clayton to lead in prayer and Commissioner Kennington to lead the Pledge of Allegiance.

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

A **motion** was made by Chairman Lunsford, **seconded** by Commissioner Jeffers and **carried 5-0** to add an item to the agenda to consider a request for refund of \$1,230 excise tax erroneously paid to the Register of Deeds.

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

**INFORMAL COMMENTS:**

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

Mr. Patrick Riley of 256 Hicks Yarboro Road, Roxboro suggested corrections to the October 18, 2010 Board minutes pertaining to his taxpayer appeal of disqualification and removal from the Present-Use Program.

Mr. Randy King of 104 Eroll Court, Leasburg, resident at Hyco Lake and representing Electronic Solutions, Inc., an internet and computer service company, spoke on the Person County Zoning Ordinance related to cell towers noting his issue related to no provisions for wi-fi type low height towers. Mr. King stated the current ordinance is too stringent relying on outside contractors that delay and complicate the process and does not currently address broad-band internet towers. Mr. King stated the cost to meet the current ordinance requires approximately \$11,500 for each tower. Mr. King stated the arrangement between Person County and Center for Municipal Solutions (CMS) is viewed to be a conflict of interest and self-serving suggesting the Board to competitive bid out such service on a periodic basis if continued in the future. Mr. King recommended to the Board to eliminate the section of Planning Ordinance that addresses telecommunication towers and place the inspection and permitting back in Person County as well as lowering the application fee to reflect the cost of providing the inspection fee similar to building permits. Mr. King stated if the Board is uncomfortable of having a Zoning Ordinance without the telecommunications tower section, he recommended the Board consider wi-fi type towers. Mr. King noted the tower industry is over-regulated in Person County by the FCC, FAA and Environmental to ensure safety and performance. Mr. King presented to the Board a sample ordinance for consideration.

Ms. Liz Hill of 400 Regency Forest Drive, Cary, and representing Carolinas Wireless Association, a trade association representing the infrastructure providers, carriers, etc., in the wireless industry for a NC/SC region. Ms. Hill stated Person County's current code provisions discourage wireless deployment and is a barrier to the carrier to provide service to the citizens. Ms. Hill stated the issues dealing with tower placement should be technological neutral. Ms. Hill urged the Board to address land-use issues only, simplify the process, and encourage infrastructure construction by making it easier in some areas while harder in more sensitive areas. Ms. Hill offered the Board for Carolinas Wireless to partner to provide input and expertise.

Mr. Larry Yarborough of 87 Duck Pointe, Roxboro stated Person County has an unnecessary, burdensome regulation for cell towers. Mr. Yarborough requested the Board to simplify the lengthy process and regulations.

Mr. Ernie Wood of 470 Old City Lake, Roxboro yielded his public comment time to Mr. Rusty Monroe of CMS if the Board desired. It was the consensus of the Board to allow Mr. Monroe to make comments. Mr. Monroe stated towers are registered with the FCC noting no federal entity regulates towers. Mr. Monroe stated the towers are technological neutral but determines if a commercial use. Mr. Monroe stated CMS has never taken more than three weeks to review an application explaining how recent Person County applications were abandoned years ago to only receive virtually identical applications 9 months later. Mr. Monroe stated CMS has not driven nor influenced county policy but attempted to enable the Board to make informed decisions. Mr. Monroe noted repealing the current ordinance related to cell towers would not increase or decrease the numbers of applications as those decisions are made on the corporate level based on revenues.

**APPROVAL OF MINUTES:**

Commissioner Kennington inquired if a citizen had a right to add an addendum to the Board's minutes reflecting their interpretation. County Attorney, Ron Aycock informed the Board members that the minutes of the Board are indeed the Board's report of actions based on Board member's judgment of such actions and such should be reflected in the minutes according to Board members only and not external parties. Mr. Aycock stated the Board may or may not choose to amend its Board minutes to include any interpretation presented by an external party. Mr. Aycock stated NC practice is not to have verbatim minutes but instead a summary of the actions. NC law only dictates Board actions to be recorded in the minutes. Commissioner Kennington confirmed with the County Attorney that any citizen could indeed purchase, for a nominal fee, a copy of the streamed Board meeting to obtain verbatim minutes. Mr. Aycock stated the minutes and video of Board meetings are available on the county website.

A **motion** was made by Commissioner Jeffers, **seconded** by Commissioner Puryear, and **carried 5-0** to approve the minutes of October 11, 2010 and October 18, 2010.

**REQUEST TO APPROVE A MAJOR SUBDIVISION CONCEPT PLAN FOR HATTIE SUE PAYLOR ESTATE:**

Planning Director, Paula Murphy stated the Planning Board reviewed a request for a Major Subdivision (Family Subdivision) Concept Plan proposing 20 lots for the Hattie Sue Paylor Estate off of Jones Paylor Road. The property consists of 119 acres and is a combination of wooded areas and farmland located on Mayo Lake. Ms. Murphy stated there are several Progress Energy right-of-ways on the property and some streams. The property is not located within a designated watershed nor are there any flood areas on the property.

Ms. Murphy stated all lots will have individual well and septic systems. Access to the site is off Jones Paylor Road, SR 1514, a State maintained road. Ms. Murphy told the Board there are several 50 foot proposed access easements shown that will require county approved road names. The ordinance does not require any state or county road standards for family subdivision roads. Ms. Murphy noted there are ten existing lots within the subdivision. Ms. Murphy stated birth certificates will need to be presented to the Planning Department prior to final approval of the plat to verify qualification as a family subdivision.

The Planning Board reviewed this item at their October 14, 2010 meeting and voted unanimously to recommend approval with conditions for road names to be presented to the county for approval in the road system, birth certificates for all involved be presented to the county prior to signing of the final plat and that all other requirements of the Person County Subdivision Ordinance be met prior to submittal of the final plat.

Commissioner Kennington requested Ms. Murphy to explain a family subdivision. Ms. Murphy stated the family subdivision is limited to family members only with property transferable once per lifetime noting a family subdivision does not have any state or local road standards. Ms. Murphy noted the plat does have the required language: "This is a family subdivision and road improvements are not required unless further subdivided. Access is over a private road right of way. A road maintenance agreement is not required and may not be available". Ms. Murphy stated once the family division is approved, the property could be sold or transferred and would have no affects on the family subdivision process.

A **motion** was made by Commissioner Clayton, **seconded** by Commissioner Puryear, and **carried 5-0** to approve the request for a Major Subdivision Concept Plan proposing 20 lots for the Hattie Sue Paylor Estate off of Jones Paylor Road with conditions for road names to be presented to the county for approval in the road system, birth certificates for all involved be presented to the county prior to signing of the final plat and that all other requirements of the Person County Subdivision Ordinance be met prior to submittal of the final plat.

#### **PERSON COUNTY WIRELESS TELECOMMUNICATIONS FACILITIES ZONING ORDINANCE:**

Assistant County Manager, Gene Hodges stated the Board requested the current ordinance be reviewed to determine if changes are needed noting concerns have been expressed about the current zoning ordinance as it pertains to the site locations of cell phone towers in Person County. Mr. Hodges stated the Board received in the board packets an excerpt of the Planning Ordinance (pages 100-140) related to Wireless Telecommunications Facilities along with a model ordinance as developed a national wireless association, PCIA—The Wireless Infrastructure Association. Mr. Hodges provided copies at the Board members' seat of the current contract Person County has with consultant, Mr. Rusty Monroe of CMS. Mr. Hodges requested the Board's input and direction to staff.

Commissioner Jeffers asked Ms. Liz Hill to state the mission and membership of Carolina Wireless Association. Ms. Hill stated Carolina Wireless Association is an open association including anyone in the wireless business primarily the infrastructure providers, service provides as well as some individuals noting their mission is to advocate wireless deployment infrastructure, rules and regulations for the industry.

A **motion** was made by Commissioner Puryear, **seconded** by Commissioner Kennington, to remove pages 102-142 of the county telecommunications facilities zoning ordinance and instruct the Planning Board to simplify the ordinance using the sample ordinance provided by Mr. King as a guideline.

Commissioner Jeffers asked Mr. King where he obtained the sample ordinance. Mr. King stated he obtained the sample ordinance from an organization that deals with municipalities and developed for the State of South Carolina.

Commissioner Puryear stated the current ordinance is a major roadblock and the residents are unhappy and desire a quicker process.

Commissioner Clayton stated his vote in opposition to the current ordinance when adopted and suggested the Board to send to the Planning Board to review and bring back to the Board a proposal.

A **substitute motion** was made by Commissioner Clayton, **seconded** by Commissioner Kennington, to direct the Planning Board to review the current county telecommunications facilities zoning ordinance and submit to the Board a proposal.

Commissioner Kennington requested the Board to be very specific in the direction to the Planning Board for its review noting the many different sample ordinances and associations. Commissioner Kennington requested consideration for the Planning Board to review all the sample ordinances and propose a simplified ordinance, considering shorter poles for wi-fi services as well as consider the need for a consultant. Commissioner Kennington advocated to bidding out for services and recommended such in regard to the consultant services on an annual basis.

Chairman Lunsford stated support to Commissioner Clayton's substitute motion.

County Manager, Heidi York asked the Planning Director, Paula Murphy how soon could the Planning Board review the ordinance. Ms. Murphy stated the Planning Board had many items to address and it may be January before they could review. Ms. York asked the Board is the intention to repeal the ordinance and have nothing in place or keep the current ordinance to bring back a proposal for changes. Commissioner Clayton stated opposition of having nothing in place during the review period.

Commissioner Puryear stated the current ordinance is too complex for Person County and encouraged Board action to take out the current regulations.

Commissioner Clayton suggested including a time period for the Planning Board to report back to the Board. Commissioner Kennington conferred and noted if the Planning Board could not have a special meeting to review within 30 days then the Board should do so.

The **substitute motion was amended** by Commissioner Clayton, **seconded** by Commissioner Kennington, and **carried 4-1** to direct the Planning Board to review the current county telecommunications facilities zoning ordinance and submit to the Board a proposal within 30 days using the sample ordinances presented to the Board or regional county ordinances as a guideline to simplify the county ordinance, as well as include consideration of shorter poles and verify the need for a consultant. Commissioner Puryear cast the lone dissenting vote and stated his support for the Board to take action to remove the current county regulations to make the process quicker.

**AUTHORIZATION FOR COUNTY MANAGER TO SIGN ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT AND ONE NC FUND GRANT AGREEMENT WITH CERTAINTEED GYPSUM NC, INC:**

Assistant County Manager, Gene Hodges told the Board that CertainTeed Gypsum NC, Inc. has committed to building a state-of-the-art 520,000 square foot wall board manufacturing facility adjacent to the Progress Energy plant on Shore Road. Mr. Hodges stated the project will generate approximately \$160,000,000 in capital investment and the creation of at least 89 new jobs in Person County. Mr. Hodges stated the \$160,000 capital investment will generate approximately \$1.2 million in taxes.

Mr. Hodges stated as a part of a comprehensive incentive package to attract this industry, CertainTeed obtained a One NC Fund Grant from the North Carolina Department of Commerce in which Person County must match the grant award. The grant match is \$300,000 plus Person County has agreed to add an additional \$200,000 for a total of \$500,000 to recruit this industry to Person County. Mr. Hodges noted each dollar of the incentive will generate \$10 in additional payroll and \$320 in capital investment in Person County. Mr. Hodges stated the first installment payment of \$100,000 will be upon completion of the facility with \$100,000 annual payments contingent upon the capital investment and job creation.

Mr. Hodges requested the Board to authorize the County Manager to enter into an incentive agreement with CertainTeed Gypsum, NC and to sign the One NC Grant fund agreement.

A **motion** was made by Commissioner Puryear, **seconded** by Commissioner Clayton, and **carried 5-0** to authorize the County Manager to enter into an incentive agreement with CertainTeed Gypsum, NC as well as to sign the One NC Grant fund agreement.

**ASSIGNMENT OF EASEMENT TO CITY OF ROXBORO OBTAINED FOR THE GMH WATERLINE EXTENSION PROJECT:**

General Services Director, Ray Foushee requested the Board to assign the utility easement property over to the City of Roxboro. Mr. Foushee stated this will be a permanent utility easement for the operation and maintenance of water and sewer lines that was obtained by the County from Rachel P. Royster located on the corner of Providence and Virgilina Roads to complete the GMH waterline extension project. Mr. Foushee noted with the completed construction of the water lines in the Providence and Virgilina Road areas, the County is now assigning this easement to the City of Roxboro for the construction, laying, operation, maintenance, improvement, and repair of water and sewer lines per the Interlocal Agreement for water extension lines.

A **motion** was made by Commissioner Clayton, **seconded** by Commissioner Jeffers, and **carried 5-0** to approve assignment of the permanent utility easement to the City of Roxboro for the construction, laying, operation, maintenance, improvement, and repair of water and sewer lines per the Interlocal Agreement for water extension lines related to the GMH waterline extension project.

Commissioner Kennington requested Mr. Foushee to update the Board on the status of the Roxboro Christian Academy extension. Mr. Foushee stated the agreement with Roxboro Christian Academy has been signed and currently awaiting the design engineering for the project with expectation to request bids in the next 30 days. Mr. Foushee noted he had obtained state approval related to the streams on the property. The County Attorney, Ron Aycock confirmed the easement for the county would be recorded.

**BOARDS AND COMMITTEE APPOINTMENTS:**

Clerk to the Board, Brenda Reaves presented to the Board citizen applications for current boards and committee vacancies for consideration of appointment.

- Home Health and Hospice Advisory Committee  
3-Year Term:

Current vacancies include 1 position for a consumer and a physician as well as a slot representing DSS.

- 1) Mitch Pergerson requested appointment to the consumer slot.
- 2) Barbie Hepler requested appointment representing DSS.

Ms. Reaves noted there are no applications for the physician slot at this time.

A **motion** was made by Commissioner Kennington, **seconded** by Chairman Lunsford, and **carried 5-0** to appoint Mitch Pergerson and Barbie Hepler to the Home Health and Hospice Advisory Committee to represent the consumer slot and the Department of Social Services respectively, each for a 3-year term.

- Region K Aging Advisory

Current vacancies include 1 position available to fill an unexpired term of 12/31/11 and 2 positions available for a 3-year term.

- 1) Phyllis Sutton requested reappointment for a 3-year term.

Ms. Reaves noted Diane Cox, COG Aging Director requested Board consideration to extend existing terms for Herb Harris to 12/31/13 and Melinda Hudson to 12/31/12.

A **motion** was made by Commissioner Jeffers, **seconded** by Commissioner Puryear, and **carried 5-0** to appoint Phyllis Sutton to the Region K Aging Advisory Committee for a 3-year term as well as extend existing terms for Herb Harris to 12/31/13 and Melinda Hudson to 12/31/12.

**REQUEST FOR REFUND OF \$1,230 EXCISE TAX ERRONEOUSLY PAID TO THE REGISTER OF DEEDS:**

County Attorney, Ron Aycock presented the Board with an Affidavit in Support of Refund of Overpayment of Excise Tax and requested Board consideration to authorize a request for refund of \$1,230 excise tax erroneously paid to the Register of Deeds explaining American Equity Funding, Inc. purchased properties in North Carolina and other states from Wells Fargo Bank. Mr. Aycock noted the one property bought in Person County at the purchase price of \$22,579.41 and the prices of the combined properties throughout the country were over half-million dollars. Mr. Aycock stated the amount of excise tax was incorrectly calculated on the totality of the purchase and not based on just the Person County property. Mr. Aycock stated NC General Statutes 105-228.37 provides that the Board of County Commissioners, upon hearing and understanding of the issue, may authorize refund of the erroneously paid excise tax upon request of the taxpayer. Mr. Aycock noted upon Board authorization of the refund, the Register of Deeds will be authorized to refund the \$1230 excise tax erroneously paid as well as to collect the correct amount of excise tax due Person County in the amount of \$46.

A **motion** was made by Commissioner Kennington, **seconded** by Commissioner Jeffers, and **carried 5-0** to authorize a refund in the amount of \$1,230 excise tax erroneously paid to the Register of Deeds.



**AFFIDAVIT IN SUPPORT OF REFUND  
OF OVERPAYMENT OF EXCISE TAX**

STATE OF North Carolina

COUNTY OF Cumberland

The undersigned, Susan R. Benoit, first being duly sworn, does hereby depose and say:

She is an Attorney with the Law Firm of Hutchens, Senter & Britton P.A., and in her capacity as the same she is familiar with the facts described below.

American Equity Funding Inc. purchased property identified as 54 Wisteria Drive, Roxboro, North Carolina from Wells Fargo Bank, N.A.

The Purchase Agreement that included the property identified as 54 Wisteria Drive Roxboro, North Carolina was a bulk sale purchase agreement and included 38 other properties, located throughout the United States.

The actual sales price for each of the 39 properties is delineated on a spreadsheet attached to The Purchase Agreement as Exhibit B.

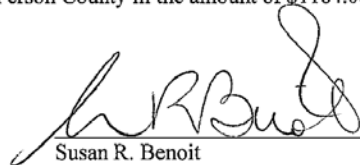
The actual sales price for 54 Wisteria Drive, Roxboro, North Carolina was \$22,579.41.

Revenue due to Person County for the sale of 54 Wisteria Drive, Roxboro North Carolina was \$46.00.

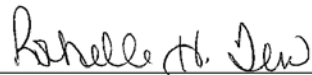
The Affiant inadvertently submitted a check for Revenue in the amount of \$1,230.00, which said amount was figured by calculating the total purchase price of all 39 properties listed in The Purchase Agreement and was therefore submitted in error.

The Affiant has respectfully requested a refund from Person County in the amount of \$1184.00.

This 19 day of October, 2010.

  
Susan R. Benoit

Sworn to before me this 19 day of October, 2010.

  
Notary Public  
My Commission expires: 6-16-2013



**November 1, 2010**

**BUDGET AMENDMENT:**

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

Upon a motion by Commissioner Jeffers, and a second by Commissioner Puryear and majority vote (5-0), the Board of Commissioners of Person County does hereby amend the Budget of the General Fund(s) on this, the 1st day of November 2010, as follows:

| <u>Dept./Acct No.</u> | <u>Department Name</u>                      | <u>Amount</u><br>Incr / (Decr) |
|-----------------------|---|--------------------------------|
| <u>EXPENDITURES</u>   | <u>General Fund</u>                         |                                |
|                       | Public Safety                               | 125,000                        |
|                       | <u>Water and Sewer Special Reserve Fund</u> | 30,000                         |
| <u>REVENUES</u>       | <u>General Fund</u>                         |                                |
|                       | Fund Balance Appropriated                   | 125,000                        |
|                       | <u>Water and Sewer Special Reserve Fund</u> |                                |
|                       | Fund Balance Appropriated                   | 30,000                         |

Appropriate: Fund balance appropriation in the Law Enforcement Restricted Fund for expenditures associated with the Unauthorized Substance Tax (\$30,000) and fund balance appropriation in the Water and Sewer Special Reserve Fund for previous, Board-approved waterline projects for Theresa Baptist Church (\$100,000) and Roxboro Christian Academy (\$25,000).

**CHAIRMAN'S REPORT:**

Chairman Lunsford stated he recently attended a COG meeting and conveyed news to the group of the COG's plans to hire a Work Force Development Business Service Representative as well a Community Development Planner.

Chairman Lunsford announced the COG meeting would be held in Person County on November 18, 2010 and requested Board members to attend.

Chairman Lunsford asked Board members to volunteer to attend the Transportation Advisory Council meeting that will be held in Oxford on November 9, 2010 at 10:00 a.m. Hearing no volunteers, Chairman Lunsford stated he would represent the Board at this meeting. Chairman Lunsford stated the need for a Commissioner Representative to attend such meetings in the future as Person County has not had representation in the past. Commissioner Kennington asked if this Advisory Council is a committee assignment. Chairman Lunsford noted Commissioner Puryear was assigned to the Transportation Advisory Council.

Chairman Lunsford stated a ground-breaking event took place earlier this date for Union Bank & Trust. Union Bank will be located on Durham Road adjacent to Tar-Heel Chevrolet.

**MANAGER'S REPORT:**

County Manager, Heidi York requested Board consideration to relocate its November 15, 2010 meeting to the Auditorium to accommodate the Local Government Day students and teachers that will be present. It was the consensus of the Board to relocate its November 15, 2010 regular scheduled meeting to the Person County Office Building Auditorium.

Ms. York announced 4,709 ballots or 19% of the registered voters in Person County had been cast during the period slated for early voting.

**COMMISSIONER REPORT/COMMENTS:**

Commissioner Kennington stated he recently attended Piedmont Community College's (PCC) Strategic Planning Session noting PCC's incorporation of Person Futures Strategic Plan into their Strategic Plan. Commissioner Kennington stated his concern of the high school 30% drop out rate in Person County noting 43% of the drop out rate include black males. Commissioner Kennington noted School Board member, Margaret Bradsher is spearheading a committee for this cause. Commissioner Kennington further noted PCC's concerns as they currently have 30 remedial math classes preparing students for college math.

Commissioner Puryear had no report.

Commissioner Jeffers had no report.

Commissioner Clayton reemphasized the November 18, 2010 COG meeting to the held in Person County and encouraged attendance.

**ADJOURNMENT:**

A **motion** was made by Commissioner Kennington, **seconded** by Commissioner Jeffers, and **carried 5-0** to adjourn the meeting at 7:57 p.m.

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Brenda B. Reaves  
Clerk to the Board

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Johnny Myrl Lunsford  
Chairman

**November 1, 2010**