

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

**September 15, 2008**  
**OTHERS PRESENT**

Johnny Myrl Lunsford, Chairman  
Jimmy B. Clayton, Vice-Chairman  
Kyle W. Puryear  
Larry H. Bowes  
Larry E. Yarborough, Jr.

Heidi N. York, County Manager  
C. Ronald Aycock, County Attorney  
Faye T. Fuller, Clerk to the Board  
Brenda B. Reaves, Deputy Clerk to the Board

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The Board of Commissioners for the County of Person, North Carolina, met in regular session on Monday, September 15, 2008 at 9:00 a.m. in the Commissioners' meeting room in the Person County Office Building.

Chairman Lunsford called the meeting to order. Commissioner Clayton led in prayer and Commissioner Bowes led the Pledge of Allegiance.

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

Commissioner Puryear requested that discussion of the waterline extension to the Halifax Road/Virgilina Road area be added to the agenda.

County Manager York requested that a Closed Session be added to the agenda in order to review her Work Plan.

A **motion** was made by Commissioner Bowes, **seconded** by Commissioner Puryear and **carried** to approve the adjusted agenda.

**INFORMAL COMMENTS:**

**Ken Hill** – Mann Oakley Road – SWAC- Chairman- Introduced Mr. Greg Duhan, Manager, Upper Piedmont Environmental, as a new member of the Solid Waste Advisory Committee.

**APPROVAL OF MINUTES:**

A **motion** was made by Commissioner Puryear, **seconded** by Commissioner Bowes, and **carried** to approve the minutes of the September 2, 2008 meeting.

**ADMINISTRATIVE REPORTS:**

A **motion** was made by Commissioner Clayton, **seconded** by Commissioner Bowes, and **carried** to accept the following Administrative Reports: Airport, E-911, Emergency Medical Services and Inspections.

**CONSIDERATION OF THE AMBULANCE FRANCHISE ORDINANCE:**

County Manager York presented the revised Ambulance Franchise Ordinance for Board consideration. She reviewed the changes, which she explained were highlighted for clarification. She told the Board that all parties involved were in agreement with the final document.

A **motion** was made by Commissioner Puryear, **seconded** by Commissioner Clayton and **carried** to approve the Person County Ambulance Franchise Ordinance as revised.

**PERSON COUNTY  
AMBULANCE FRANCHISE ORDINANCE**

**WHEREAS**, North Carolina General Statute Section 153A-250 provides that a county may by ordinance franchise ambulance services provided in the county to the public at large; and

**WHEREAS**, said General Statute requires the holding of a public hearing after publication of notice of the hearing; and

**WHEREAS**, this board has held the required public hearing after proper notice was published in the Courier Times, a newspaper of general circulation serving Person County, on July 9 and July 19, 2008. (Copy of notice Attached as Exhibit A); and

**WHEREAS**, this board finds it necessary to assure the provision of adequate and continuing ambulance service and to preserve, protect, and promote the public health, safety, and welfare of the citizens of Person County to enact this Ordinance which shall be known as "Person County Ambulance Franchise Ordinance".

**NOW THEREFORE**, be it ordained as follows:

**SECTION I. Franchise Required**

1.1 No person either as owner, agent or otherwise, shall furnish, operate, conduct, maintain, advertise or otherwise be engaged in or profess to be engaged in the business or service of emergency and/or non emergency transportation of patients within the

geographic boundaries of Person County unless the person holds a valid permit for each ambulance used in such business or service issued by the North Carolina Department of Health and Human Services, Division of Health Service Regulation, Office of Emergency Medical Services and has been granted a franchise for the operation of such business or service by the County pursuant to this Ordinance.

1.2 No person shall drive, attend, or permit a vehicle to be operated for ambulance purposes within the County of Person unless he or she holds a currently valid credential as an emergency medical technician (Basic, Intermediate or paramedic) issued by NC OEMS.

1.3 No franchise shall be required for:

(A) Any entity rendering assistance to Person County Emergency Services or a franchised ambulance service in the case of a major catastrophe or emergency when existing ambulance services are insufficient to provide necessary services; or,

(B) Any entity operated from a location or headquarters outside of Person County in order to transport patients who are picked up beyond the limits of Person County, but no such entity shall be used to pick up patients within Person County for transportation to locations within Person County or other locations unless it is rendering assistance as referred to in 1.3 (A) above; or,

(C) Law Enforcement Personnel; or

- (D) The operation of the Person County owned ambulance service.

## **SECTION II. Application for Franchise**

2.1 Application for a franchise to operate ambulances in the County shall be made upon such forms as may be prepared or prescribed by the County and shall contain:

- (A) The name and address of the applicant and of the owner of the ambulances. If the owner is a corporation, a certified copy of the articles of incorporation shall be included with the application.
- (B) The trade or other fictitious names, if any, under which the applicant does business, along with a certified copy of an assumed name certificate stating such name or articles of incorporation stating such name.
- (C) A resume of the training and experience of the applicant, its agents and employees in the transportation and care of patients.
- (D) A description (make, type, year of manufacture, and serial number) of each ambulance owned and operated by the applicant and an inventory of equipment to be carried on each ambulance that will guarantee certification as such per current NC OEMS rules and regulations. If an ambulance(s) to be used in the provision of the proposed franchised service is not owned by the applicant at the time of the submission of the application, a full description of such

ambulance(s) shall be provided including all information required above except for a specific serial number. A franchise may not be granted until such ambulance is acquired by the applicant, but a certification may be issued that all conditions for the franchise have been met except for the ownership of the ambulance.

- (E) The location and description of the place or places of business from which the applicant intends to operate.
- (F) An audited financial statement of the applicant in such form and in such detail as may be required by the County.
- (G) A description of the applicant's capability to provide twenty-four (24) hour coverage, seven days per week for the district covered by the franchise applied for, and an accurate estimate of the minimum and maximum times for a response to calls within such district.
- (H) The criminal record, if any, of the applicant; provided that if applicant is a corporation, the criminal record, if any, of the officers, directors and supervising employees thereof, including general manager or director.
- (I) Any information that the County shall deem reasonably necessary for a fair determination of the capability of the applicant to provide ambulance service in the County in accordance with the requirements of State laws and the provisions of this ordinance.

(J) The geographic portion of the County that the applicant desires to operate within.

2.2 An applicant may make application for a franchise to operate either advanced life support or basic life support transportation service. The applicant must specify which level of transportation service they are applying for.

### **SECTION III. Granting of Franchise**

3.1 Upon receipt of an application for a franchise, the County shall schedule a time and place for hearing the applicant. Within thirty days after hearing, the County shall cause such an investigation as it may deem necessary to be made of the applicant and his proposed operations.

3.2 A franchise may be granted if the County finds that:

(A) The public convenience and necessity require the proposed ambulance service. In determining whether the public convenience and necessity require the proposed ambulance service, the Board will consider and investigate the statements made in the application, the adequacy of the existing ambulance service, the financial responsibility, experience, and character of the applicant, and the ability of the existing ambulance providers to provide any necessary additional services, and other factors pertinent to such determination.

- (B) Each ambulance of the applicant, the required equipment and the premises designated in the application, have been either certified by the County and or the State of North Carolina or are eligible for such certification per current NC OEMS rules and regulations.
- (C) Only duly credentialed Emergency Medical Technicians are employed in such capacities.

#### **SECTION IV. Term of Franchise**

- 4.1 The County may issue a franchise to an owner of an ambulance service, to be valid for a term not to exceed five years. However, a franchise once granted may be extended for additional five year terms upon written application and documentation establishing that the franchisee is in full compliance with all Person County and NC OEMS rules and regulations and that valid permits have been issued by NC OEMS for each ambulance being operated and that a current provider license has been issued to the franchisee by NC OEMS.
- 4.2 No franchise granted may be sold, assigned or transferred to or in any way vest in any person other than the applicant to whom the franchise is granted. Provided however, a sale, assignment or transfer of an ambulance service to a relative or to a business entity where all of the ownership interests are owned by relatives of the applicant shall not be considered a sale, assignment or transfer under this ordinance and shall not result in a termination of the franchise.

## **SECTION V. Standards for Ambulance Franchise**

- 5.1 Each franchised ambulance service shall comply at all times with the requirements of this Ordinance, the franchise granted hereunder, all applicable State and Local Laws relating to health, sanitation, safety, equipment, and ambulance design, the current Person County EMS System Plan and all other laws and ordinances.
  
- 5.2 Any change of ownership of a franchised ambulance service without the approval of the County shall terminate the franchise and shall require a new application and a new franchise and conformance with all the requirements of this Ordinance as upon original franchise issuance. Provided however a change in ownership resulting in the acquisition of an ownership interest by a relative of the applicant or a business entity where all of the ownership interests are owned by a relative of the applicant shall not be considered a change of ownership under this ordinance.

## **SECTION VI. Standards for Drivers, Attendants, Vehicles and Equipment**

- 6.1 Standards for drivers, attendants, vehicles and equipment as developed and adopted by the North Carolina Medical Care Commission and enforced by NC OEMS in accordance with Chapter 131E, Article 7 and Chapter 143, Article 56 of the North Carolina General Statutes and Chapter 10A of the North Carolina Administrative Code, Subchapter 13P are incorporated herein as part of this Ordinance. All drivers, attendants, vehicles and equipment shall meet the specifications and qualifications of the above mentioned rules, regulations and standards.



- 6.2 It shall be the responsibility of the franchisee to ensure that the provisions of this section are observed as required.
- 6.3 Proof of compliance with this section shall be made available to the Director of Person County Emergency Services on an annual basis.

## **SECTION VII. Standards for Communications**

- 7.1 Each ambulance must be equipped with a mobile two-way VHF radio which must be in operative condition at all times. The radio must have a minimum of 25 watts operating power and four channels that are programmable to the following frequencies: Statewide EMS, Person Memorial Hospital, Person County EMS primary dispatch and an internal operational frequency capable of dispatching their units. Other frequencies as needed are acceptable but not required by franchise.
- 7.2 Each ambulance service shall provide the County a copy of the Federal Communications Commission License authorizing the use of the communication equipment owned and operated by that service.
- 7.3 Each base of operations must have at least one open telephone line. Telephone numbers must be available to Person County Emergency Services, and Person County Communications.

## **SECTION VIII. Insurance**

- 8.1 No ambulance franchise shall be issued under this Ordinance, nor shall such franchise be valid after issuance, nor shall any ambulance be operated in the County unless there is at all times in

force and effect insurance coverage, issued by an insurance company licensed to do business in the State of North Carolina, for each and every ambulance owned and/or operated by or for the ambulance service providing for the payment of damages:

- (A) In the sum of \$ 1,000,000 for injury to or death of individuals in accidents resulting from any cause for which the owner of said vehicle would be liable on account of liability imposed on him by law, regardless of whether the ambulance was being driven by the owner or his agent and,
- (B) In the sum of \$ 1,000,000 for the loss of or damage to the property of another, including personal property.

8.2 Proof of insurance coverage shall be made available to the Director of Person County Emergency Services on an annual basis.

### **SECTION IX. Rates and Charges**

9.1 Person County shall, in accordance with North Carolina General Statute Section 153A-250(a)(6) establish and from time to time revise a schedule of rates, fees, and charges that may be charged by franchised operators. Such rates, fees and charges shall be applicable to and uniform for all providers public, private and non-profit.

9.2 Person County has the right to audit the financial records of each franchised operator for charges for patient services.

### **SECTION X. Violations**

10.1 In the event of a violation of any section of this Ordinance or of any term or condition of a franchise issued hereunder, the violator may

be assessed a civil penalty by the County Manager in the amount of five hundred dollars for each violation. Each day that a violation continues shall be deemed a separate violation. A violator shall be entitled to a hearing before the County Manager on the assessment of any penalty. Any civil penalty may be recovered in the nature of a debt if the violator does not pay the penalty within ten days after being notified of a hearing decision. If the civil penalty is not paid within the ten days as provided for above, the County may suspend or revoke the franchise.

- 10.2 As provided in North Carolina General Statute 153A-123, Person County may seek an injunction, abatement order or any other appropriate remedy to insure compliance with this Ordinance.
- 10.3 Nothing herein shall prevent Person County from proceeding in a criminal action against any person, firm or corporation for violating any provision of this Ordinance or any term or condition of a franchise granted hereunder as provided in North Carolina General Statute 14.4.
- 10.4 Upon suspension, revocation, or termination of a franchise granted hereunder, such franchised ambulance service immediately shall cease operations. Upon suspension, revocation, or termination of a driver's license or emergency medical technician credential such person shall cease to drive an ambulance or provide medical care in conjunction with an ambulance service, or attend and ambulance and no person shall employ or permit such individual to drive an ambulance or provide medical care in conjunction with an ambulance service.

## **SECTION XI. Enforcement**

- 11.1 The Director of Emergency Services for Person County or his designee shall be the agent for the county for purposes of making inspections of drivers, attendants, vehicles and equipment; to aid the board of commissioners in determining compliance with this ordinance; and of investigations into alleged violations of the articles of this ordinance.
- 11.2 Person County Emergency Services shall be the enforcing agency for the regulations contained in this Ordinance. Such office will:
- (A) Receive all franchise proposals from potential providers.
  - (B) Study each proposal for conformance to this Ordinance.
  - (C) Make recommendations to the Board of Commissioners concerning the award or non award of the franchise.
  - (D) Inspect the premises, vehicles, equipment, and personnel of franchisees to assure compliance to this Ordinance and to perform any other inspections that may be required.
  - (E) Recommend temporary or permanent suspension of a franchise in the event of noncompliance with the franchise terms of this Ordinance to the County Manager. Appeal from final decisions of the County Manager shall be to the Board of Commissioners. Appeal to the Board of County Commissioners must be filed with the Clerk to the Board within seven days of the Manager's final decision.

- (F) Recommend to the County Manager the imposition of misdemeanor or civil penalties as provided herein or recommend such other courses of action as may be warranted by the violation or infraction, provided however the appeal processes to the Board of County Commissioners set out in section X shall apply.
  
- (G) Receive complaints from the public, other enforcing agencies, and ambulance services regarding franchise infractions.

## **SECTION XII. Territorial Jurisdiction**

- 12.1 The provisions of this Ordinance shall apply to all areas within the geographic confines of Person County including areas within a city unless the city area has been excluded by the County or a city pursuant to GS153A-250(c).

## **SECTION XIII. Miscellaneous**

- 13.1 The County may inspect a franchisee's records, premises and equipment at any time during normal daytime business hours after reasonable notice to the franchisee, in order to insure compliance with this Ordinance and any franchise granted hereunder. Nothing contained in this ordinance shall authorize violation of any valid Federal or State law or regulation.
  
- 13.2 The franchisee shall report the number of calls and runs during the month by the 10<sup>th</sup> day of the following month to the director of Emergency Services. The report shall be in writing and shall contain the following at a minimum:

- (A) the number of emergency calls for the month
- (B) the number of routine calls for the month
- (C) the total number of calls for the month including calls that otherwise do not meet criteria above
- (D) transports by destinations: (PMH, nursing home, residence or out of county facility)
- (E) delays in calls for service: (number of delays, average delay time, reason for delay)

#### **SECTION XIV. Definitions**

- 14.1 “Advanced Life Support” means the assessment, intervention and or transport of a patient performed by an ALS crew as part of a response that was necessary because the patient’s reported condition at the time of dispatch was such that only an ALS crew was qualified to perform the assessment and or perform an intervention or procedure that is in accordance with state and local laws, required to be done by an Intermediate or Paramedic.
- 14.2 “Ambulance” means any privately or publicly owned motor vehicle, aircraft or vessel that is especially designed, constructed or modified and equipped and is intended to be used for and is maintained or operated for the transportation on the streets or highways, waterways, or airways of this State of persons who are sick, injured, wounded, or otherwise incapacitated or helpless.
- 14.3 “Basic Life Support” means the provision of BLS service with medically necessary supplies and services, including ambulance transport by personnel qualified in accordance with State and local laws at the level of an EMT-Basic.

- 14.4 “Breach” means the violation of or failure to comply with a provision of this ordinance.
- 14.5 “Business Entity” means a corporation, a general partnership, a limited partnership, or a limited liability company.
- 14.6 “County” means the County of Person Board of Commissioners or a designated representative.
- 14.7 “Emergency Transportation” means the operation of an ambulance in order to provide medical care and transportation of a patient who is in need of immediate medical treatment in order to prevent loss of life or further aggravation of physiological or psychological illness or injury. Emergency transportation may occur at the ALS or BLS level.
- 14.8 “Franchise” shall mean a permit issued by the County to a person for the operation of an ambulance service.
- 14.9 “Franchisee” shall mean any person having been issued a franchise by the County for the operation of an ambulance service.
- 14.10 “NC OEMS” shall mean the North Carolina Office of Emergency Medical Services. NC OEMS is a section of the Division of Health Service Regulation of the NC Department of Health and Human Services, located at 701 Barbour Drive, Raleigh, NC 27603. NC OEMS has enforcement oversight in the rules and regulations governing EMS operations in the state of NC as created and adopted by the NC Medical Care Commission.

14.11 "Non Emergency / Routine Transportation" means the operation of an ambulance for any purpose other than an emergency transport as defined above. Non Emergency transportation may occur at the ALS or BLS level.

14.12 "Owner" shall mean any person or entity that owns or operates an ambulance service.

14.13 "Patient" shall mean an individual, who is sick, injured, wounded, or otherwise is incapacitated or helpless.

14.14 "Person" shall mean any individual, firm, partnership, association, corporation, company, group of individuals acting together for a common purpose, or organizations of any kind, including any governmental agency other than the United States.

14.15 "Relative" shall mean any of the following:

- (A) A spouse or the spouse's lineal ancestor or descendant.
- (B) A lineal ancestor or a lineal descendant.
- (C) A brother or sister, or the lineal descendant of a brother or sister. For the purposes of this sub-subdivision, the term brother or sister includes stepbrother or stepsister.
- (D) An aunt or an uncle.
- (E) A spouse of a person listed in paragraphs a. through d. For the purpose of this subdivision, an adoptive or adopted relative is a relative and the term "spouse" includes a surviving spouse.

***This Ordinance shall be effective the 15<sup>th</sup> day of September, 2008.***

(Signed)  
Faye T. Fuller, CMC  
Clerk to the Board

Johnny Myrl Lunsford  
Chairman



**ADOPTION OF 2009 SCHEDULE OF TAX VALUES:**

Tax Administrator Russell Jones, appeared before the Board for adoption of the 2009 Schedule of Values. He explained that the Schedule was presented to the Board on August 18<sup>th</sup> followed by a Public Hearing on September 2. A copy of the Schedule of Values has been available for public inspection for twenty-one days.

A **motion** was made by Commissioner Clayton, **seconded** by Commissioner Bowes and **carried** to adopt the 2009 Land Use Schedule.

A **motion** was made by Commissioner Bowes, **seconded** by Commissioner Clayton and **carried** to adopt the 2009 Schedule of Values.

**CONSIDERATION OF APPLICATION FOR PROPERTY TAX EXEMPTION FOR OAK GROVE UNITED METHODIST CHURCH:**

Tax Administrator Russell Jones requested Board approval of an Application for Property Tax Exemption for Oak Grove United Methodist Church for their parsonage. He stated that under General Statute, any application for exempt status requested after January 31 must be approved by the Board of Commissioners. He said the property would have been approved if submitted timely.

A **motion** was made by Commissioner Yarborough, **seconded** by Commissioner Bowes and **carried** to approve the Application for Property Tax Exemption for Oak Grove United Methodist Church for their parsonage located at 4401 Chub Lake Road, Roxboro, N.C.

**PRESENTATION AND REVIEW OF COURTHOUSE RENOVATION PLANS:**

Public Works Director David Rogers told the Board that MHA Works was contracted to analyze the needs at the Courthouse and to develop renovation plans to meet those needs. He said the company met with Courthouse employees and discussed their needs for the future

MHA Works President, Michael Hining and Bill McCaffrey, Project Manager outlined the renovations and alteration plans to the Board. Mr. Hining stated that the renovations will bring the Courthouse up to current codes, reorganizes the work flow, and public access to the building and secures the building. The work would include replacement of the HVAC system as well as electrical, fire protection, ADA code, and security upgrades. He further stated this work plan will make the building functional, usable and safe for the next fifteen years. The work will be completed in five phases at an estimated cost of \$3,275,983.

The project encompasses 39,000 square feet and will be subject to review and approval by the North Carolina Department of Insurance.

Mr. Hining requested authorization to proceed with the construction drawing. Completion of the drawings would take an estimated six months to complete and be ready to put out for bids. Actual construction time would be twelve to fourteen months.

County Manager York told the Board that if authorization was granted for the construction drawings she would include the project in the Capital Improvement Project for next year. She also stated she would recommend a financing plan for the cost of this project.

Chairman Lunsford and Commissioners Bowes and Clayton voiced support for the project. All agreed that the facility is subject to numerous code violations. They also felt the renovation and alterations would be much less costly than building a new facility.

Commissioners Yarborough and Puryear voiced concerns about the cost involved and the timeliness of the project.

A **motion** was made by Commissioner Clayton, **seconded** by Commissioner Bowes that the Board authorize MHA Works to proceed with preparing the construction documents for the renovation and alteration of the Courthouse. The motion **carried** by a **3/2 vote** with Commissioners Yarborough and Puryear casting dissenting votes.

#### **CONSIDERATION OF PERSON INDUSTRIES RECYCLING PROJECT:**

Wanda Rogers appeared before the Board concerning the proposal from Person Industries to build and operate a Material Recovery (MRF) in Person County. She said since the initial business plan was presented to the Board on May 15, 2008, Person Industries has continued to work toward this goal. PI has worked to improve the MRF design, reduce the cost and provide outreach in the community to promote recycling awareness. PI is at a point where they need a commitment to this project in order to move forward. Ms. Rogers said the following factors must be addressed: (1) PI has an agreement through December 31, 2008 for the proposed site (2) the NCDENR grant cycle begins with the RFP coming in November 2008 and due in February 2009 (3) community demand. She also presented a list of current and potential customers. The projected total MRF, Baler, equipment and materials cost is \$403,483.76.

Commissioner Yarborough spoke in support of the project; however, he said he would like to see and upgrade of the business plan with resulting income with volume and an estimate of how to achieve the tonnage needed for resulting income.

A motion was made by Commissioner Clayton, seconded by Chairman Lunsford and carried to allow Person Industries to proceed with plans for the Material Recovery Facility (MRF) to be built and operated by Person Industries.

Commissioner Puryear requested Ms. Rogers to also review convenience sites.

**CONSIDERATION OF SELECTION OF ARCHITECT/ENGINEERING FIRM- MAYO PARK PARTF PROJECT:**

Mitch Pergerson, Director of the Arts, Parks and Recreation Department, recommended to the Board that MHA Works be awarded the contract as the architect/engineering firm for the Environmental Education and Community Center as well as two restroom facilities at Mayo Park. A request for approval to allocate \$45,500 upfront to move ahead with the surveys, schematic designs, construction documents, etc., for this project to be put out for bids. Mr. Pergerson reminded the Commissioners that the \$45,500 was already approved in the project and that one-half of this allocation would be reimbursed back to the County through the parks and recreation grant received for this project. Mr. Pergerson stated that the total budget for this project is \$655,000, noting the county's portion is \$302,500 with a 3 year window to spend grant funds.

A **motion** was made by Commissioner Lunsford, **seconded** by Commissioner Clayton and **carried** to approve MHA Works as the architect/engineering firm for the Environmental Education and Community Center as well as two restroom facilities at Mayo Park and to allocate \$45,500 funds to move this project forward preparing necessary documents for the bidding process, of which one-half will be reimbursed back to the County by the grant.

**REQUEST TO PLACE COMMEMORATIVE MARKER AT HURDLE MILLS PARK:**

Mitch Pergerson requested approval from the Board to place a permanent marker to commemorate that the old Hurdle Mills High School was located at the Hurdle Mills Park. Wilma Foushee and others making this request will be responsible for the cost and installation. There will be no cost to the county. The placement of the marker will be coordinated through the Parks and Recreation Department as well as the Public Works Department. The Recreation Advisory Board unanimously approved this request at their September 3, 2008 meeting.

A **motion** was made by Commissioner Clayton, **seconded** by Commissioner Bowes and **carried** to approve the request to place a permanent marker to commemorate Hurdle Mills High School.

**REQUEST FOR AUTHORIZATION OF PUBLIC HEALTH NURSE III POSITION:**

Health Department Director Janet Clayton requested an additional Public Health Nurse III position to fulfill the State requirements related to Public Health Bioterrorism Preparedness and Response. This new position does not require any additional funding; funding will be covered through Health Department grant allocations.

A **motion** was made by Commissioner Bowes, **seconded** by Commissioner Clayton and **carried** to approve the requested additional Public Health Nurse III position for the Health Department.

**CONSIDERATION OF MEMORANDUM OF UNDERSTANDING FOR COOPERATIVE, COMPREHENSIVE AND CONTINUING TRANSPORTATION PLANNING AND THE ESTABLISHMENT OF A RURAL PLANNING ORGANIZATION:**

County Manager York requested Board adoption of the revised Memorandum of Understanding for the Rural Planning Organization (RPO). The amended Memorandum of Understanding has been updated to reflect the participation of the Town of Butner into the RPO and language added to define what constitutes a quorum at the meetings. Mrs. York stated all other RPO member local governments have approved this Memorandum of Understanding.

A **motion** was made by Commissioner Yarborough, **seconded** by Commissioner Puryear and **carried** to approve the amended Memorandum of Understanding for Cooperative, Comprehensive and Continuing Transportation Planning and the Establishment of a Rural Planning Organization.

**AMENDED  
MEMORANDUM OF UNDERSTANDING  
FOR  
COOPERATIVE, COMPREHENSIVE AND CONTINUING  
TRANSPORTATION PLANNING  
AND THE ESTABLISHMENT  
OF A RURAL PLANNING ORGANIZATION  
FOR**

The **County of Franklin** and the non-MPO municipality therein: **Louisburg**; the **County of Granville** and the non-MPO municipalities therein: **Butner, Oxford, Stem,** and **Stovall**; the **County of Person** and the municipality therein: **Roxboro**; the **County of Vance** and the municipalities therein: **Henderson, Kittrell,** and **Middleburg**; the **County of Warren** and the municipalities therein: **Macon, Norlina,** and **Warrenton**; and the **North Carolina Department of Transportation**.

**WITNESSETH**

**Whereas,** on November 15, 2001, the State of North Carolina chartered the Kerr-Tar Rural Transportation Planning Organization; and,

**Whereas,** the Parties listed above entered into a Memorandum of Understanding on August 20, 2001, amended on May 24, 2005, which created the Kerr-Tar Rural Planning Organization (hereinafter, "RPO"); and,

**Whereas,** the RPO provides rural areas the opportunity to work in partnership with the NCDOT toward development of sound, short- and long-range transportation planning for rural areas; and,

**Whereas,** the Parties have agreed to amend the original Memorandum of Understanding.

**Now, therefore,** the following Amended Memorandum of Understanding is made on this the 28th day of January \_\_\_\_\_, 2008.

**Section 1.** It is hereby agreed, that the County of Franklin and the non-MPO municipality therein: Louisburg; the County of Granville and the non-MPO municipalities therein: Butner, Oxford, Stem, and Stovall; the County of Person and the municipality therein: Roxboro; the County of Vance and the municipalities therein: Henderson, Kittrell, and Middleburg; the County of Warren and the municipalities therein: Macon, Norlina, and Warrenton; and the North Carolina Department of Transportation intend to establish and participate in an RPO created for the general purposes and responsibilities outlined in the following:

1. Develop long-range local and regional multi-modal transportation plans in cooperation with the area Metropolitan Planning Organizations (MPOs) where applicable, and the NCDOT.
2. Provide a forum for public participation in the rural transportation planning process.
3. Develop and prioritize suggestions for transportation projects that the RPO believes should be included in the State Transportation Improvement Program (STIP).
4. Provide transportation-related information to local governments and other interested organizations and persons.
5. Conduct transportation related studies and surveys for local governments and other interested entities/organizations.
6. Undertake mutually agreed upon transportation related tasks to enhance transportation system development, coordination and efficiency

**Section 2.** It is hereby further agreed that transportation plans and programs and land use policies and programs for the RPO will be coordinated by the Kerr-Tar Regional Council of Governments, an agency selected on behalf of participating local governments and the NCDOT, to be the administrative entity and to serve as the lead local planning agency for coordinating transportation planning in the five-county planning area. The RPO hereby authorizes the Kerr-Tar Regional Council of Governments to be the recipient of any funds appropriated to the RPO by NCDOT pursuant to North Carolina General Statute

136-213(c). Additionally, the RPO authorizes the Kerr-Tar Regional Council of Governments to be the recipient and administrator of any other funds obtained by the RPO.

**Section 3.** Establishment of Rural Transportation Advisory Committee (RTAC). An RTAC is hereby established with the responsibility for serving as a forum for cooperative transportation planning decision making for the RPO. The RTAC shall have the responsibility for keeping the local elected governing boards informed of the status and requirements of the transportation planning process; to assist in the dissemination and clarification of the decisions, inclinations, and policies of the local elected governing boards and the NCDOT; and to help ensure meaningful public participation in the rural transportation planning process.

1. The RTAC will be responsible for carrying out the following:
  - A. Establishment of goals, priorities, and objectives for the rural transportation planning process.
  - B. Endorsement and review of changes to adopted transportation plans within the RPO.
  - C. Endorsement, review, and approval of a Planning Work Program (PWP) for transportation planning which defines work tasks and responsibilities for the various agencies participating in the RPO.
  - D. Endorsement, review, and approval of transportation improvement projects that support and enhance both regional and local transportation in the five-county RPO.
2. The membership of the RTAC shall consist of the following:
  - A. One Commissioner representing Franklin County and one municipal elected official from the RPO member municipality therein.
  - B. One Commissioner representing Granville County and one municipal elected official from one RPO member municipality therein.
  - C. One Commissioner representing Person County and one municipal elected official from the RPO member municipality therein.
  - D. One Commissioner representing Vance County and one municipal elected official from one RPO member municipality therein.
  - E. One Commissioner representing Warren County and one municipal elected official from one RPO member municipality therein.

- F. One member from the North Carolina Board of Transportation representing Division 5.
3. The Commissioner representing each county on the RTAC shall be appointed every two years by the Board of County Commissioners of each County in regular session. The municipal member representing each municipality on the RTAC shall be elected every two years by a majority vote of the Mayors of the RPO member municipalities in the county. All terms of appointment to the RTAC shall be for two years. Reappointment is possible. One alternate may be designated for each member providing they meet the same criteria as the original appointee. Representatives from Vance, Granville and Person Counties shall be reappointed in odd-number years; representatives from Franklin and Warren Counties shall be reappointed in even-number years.
  4. An RPO RTAC membership roster will be compiled and updated at least annually, listing each attendee and alternate, if applicable, for each member county and municipality.
  5. A quorum is required for the transaction of all business, including conducting meetings or hearings, participating in deliberations, or voting upon or otherwise transacting the public business. A quorum consists of 51% of the active voting members of the RTAC. The membership of a county or municipality who fails to send the appointee or alternate to two consecutive RPO meetings will be designated as a vacant seat and will not count towards quorum. Vacant seats on the RTAC shall result in a member's designation as an in-active member. Attendance at future meetings will reinstate the member.
  6. The RTAC will meet as often as it is deemed necessary, appropriate and advisable. On the basis of majority vote of its membership, the RTAC shall elect a member of the committee to act as chairperson with the responsibility for coordination of the committee's activities.
  6. In the event a county is no longer a member of the RPO, municipal representation for that county is also lost. Municipalities cannot be a member of the RTAC without the county being a member of the RPO.
  7. The Kerr-Tar Regional Council of Governments will provide staff to the RTAC.

**Section 4.** Establishment of Rural Technical Coordinating Committee (RTCC). An RTCC shall be established with the responsibility of general review, guidance, and coordination of the transportation planning process for the RPO and the responsibility for making recommendations to the respective local, state, and federal governmental agencies and the RTAC regarding any necessary actions relating to the continuing transportation process.

1. The RTCC shall be responsible for development, review, and recommendation for approval of the Planning Work Program (PWP) for the RPO, the State Transportation Improvement Program (STIP) requests, and revisions to the STIP.
2. Membership of the RTCC shall include technical representatives from all local and state governmental agencies directly related to and concerned with the transportation planning process for the RPO planning area. Initially, the membership shall include, but may not be limited to, the following:
  - a. The County Manager, Assistant County Manager, or County Planner from each of the counties of the RPO planning area, or his/her designated staff representative.
  - b. The Chief Administrative Official, City Planner, City Engineer, or City Clerk from each member municipality in the RPO planning area, or his/her designated staff representative.
  - c. The Executive Director from the Economic Development Commission in each RPO member county.
  - d. NCDOT Division Engineer serving Highway Division 5, or his/her designated staff representative.
  - e. Manager, Transportation Planning Branch, NCDOT, or his/her designated staff representative.
  - f. Regional Traffic Engineer, Division of Highways, Traffic Engineering Branch, North Carolina Department of Transportation
  - g. Director, KARTS, or his/her designated staff representative.
  - h. Director, PATS, or his/her designated staff representative.
  - i. Transportation Planner, Kerr-Tar Regional Council of Governments.
  - j. Executive Director, Kerr-Tar Regional Council of Governments.
3. Non-voting ex officio representation on the RTCC shall include but not necessarily be limited to each of the following:
  - a. The Senior Planning Staff Person or his/her designated staff representative from the Capital Area Metropolitan Planning Organization.



- b. The Senior Planning Staff Person or his/her designated staff representative from the Durham-Chapel Hill-Carboro Metropolitan Planning Organization.
  - c. The Senior Planning Staff Person of any Rural Transportation Planning Organization directly adjacent to the Kerr-Tar RPO.
  - d. The Members of the North Carolina State Legislature representing any portion of any RPO member county or municipality.
4. Membership of the RTCC may be altered on the basis of a majority vote of its membership and approval of the RTAC of the RPO. One alternate may be designated for each member providing they meet the same criteria as the original appointee. Membership may be further defined in the duly adopted bylaws. An RPO RTCC membership roster will be compiled and updated at least annually listing each attendee and alternate, if applicable, for each member county or municipality. The membership of a county or municipality member who fails to send the appointee or alternate to three consecutive RPO meetings will be designated as a vacant non-active seat and will not count towards quorum. Attendance at future meetings will reinstate the member.
4. A quorum is required for the transaction of all business, including conducting meetings or hearings, participating in deliberations, or voting upon or otherwise transacting the public business. A quorum consists of at least 51% of the active voting members of the RTCC. The RTCC shall meet when it is deemed necessary, appropriate and advisable. The RTCC will be staffed by the Kerr-Tar Regional Council of Governments. The RTCC shall by majority vote of the membership elect one member to serve as a Chairman with the responsibility for coordinating the committee's activities. Membership of the RTCC may be altered on the basis of a majority vote of its membership and approval of the RTAC of the RPO.

**Section 5.** It is further agreed that all participating agencies will assist in the rural transportation planning process by providing planning assistance (where possible), data, and inventories in accordance with the approved planning work program.

**Section 6.** Each county and its RPO member jurisdictions shall have the support of the RPO staff in developing local transportation projects and priorities. Each member agrees to coordinate its transportation plans with those of other RPO members. Additionally, by consensus, the RPO may identify projects of a regional nature for development and presentation to NCDOT for consideration.

**Section 7.** Parties to this Memorandum of Understanding may terminate their participation in the continuing transportation planning process by giving 90 days written notice to the other parties to the date of termination.

**Section 8.** In witness whereof, the parties of the Memorandum of Understanding have been authorized by appropriate and proper resolutions, and/or legislative authority to sign this Memorandum of Understanding, as per the date adopted by the following local governments of the Kerr-Tar RPO. Any municipality desiring to join the RPO after the initial 90-day period must notify the lead planning agency and the other members of the RPO in writing of its intent to join, and provide each with a copy of a fully-executed Municipal Statement of Adoption. New memberships will become effective on July 1<sup>st</sup> of each year.

**Section 9.** This Amended Memorandum of Understanding supersedes and replaces any prior memorandum(s) of understanding between the Parties regarding the RPO.

**Section 10.** In witness whereof, the Parties have been authorized by appropriate and proper resolutions, and/or legislative authority to sign this Amended Memorandum of Understanding, this the 15th day of September, 2008.

AGREED UPON BY:

\_\_\_\_\_  
Chairman, Franklin County Commission

\_\_\_\_\_  
Mayor, City of Louisburg

\_\_\_\_\_  
Chairman, Granville County Commission

\_\_\_\_\_  
Mayor, Town of Butner

\_\_\_\_\_  
Mayor, City of Oxford

\_\_\_\_\_  
Mayor, Town of Stem

\_\_\_\_\_  
Mayor, Town of Stovall

\_\_\_\_\_  
Chairman, Person County Commission

\_\_\_\_\_  
Mayor, City of Roxboro

\_\_\_\_\_  
Chair, Vance County Commission

\_\_\_\_\_  
Mayor, City of Henderson

\_\_\_\_\_  
Mayor, Town of Middleburg

\_\_\_\_\_  
Mayor, Town of Kittrell

\_\_\_\_\_  
Chairman, Warren County Commission

\_\_\_\_\_  
Mayor, Town of Macon

\_\_\_\_\_  
Mayor, Town of Norlina

\_\_\_\_\_  
Mayor, Town of Warrenton

\_\_\_\_\_  
Secretary, NCDOT

\_\_\_\_\_  
Executive Director, Kerr-Tar COG

Witness:

\_\_\_\_\_  
Transportation Planner, Kerr-Tar COG

Approved as execution

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Assistant Attorney General

**DISCUSSION OF EXEMPTION FOR ENGINEERING WORK ON WATERLINE EXTENSION TO HALIFAX ROAD/VIRGILINA ROAD AREA:**

Commissioner Puryear asked the County Attorney the legal requirements regarding approving a firm at the last meeting for the engineering work on the waterline extension project and not putting it out for bid to allow local businesses interested in participating in the process.

County Attorney, Ron Aycock responded by saying the statutes do not require the normal bidding on this type work since engineering work is a "personal service". In fact there is an argument that bidding is in effect prohibited. Instead a "qualification process" is required. A truncated process to select the engineering firm to restrict the amount of time is allowable. Mr. Aycock further stated that in his opinion the Board should not set an "in county" contractor as preference but that the question to review is the contractor qualifications. Relative to "voiding" the contract authorized at the last meeting, the contract holder already has rights. If there are no grounds to set aside the contract, the County could be subject to liability by the contractor.

County Engineer, Paul Bailey stated that general statutes did not allow proposals or bids for a specific price to be submitted, but a firm must be selected based on qualifications, then an attempt to negotiate the contract terms. If the terms of the contract could not be negotiated, then another firm could be selected. Mr. Bailey noted he had already spent one-half day meeting with the firm looking at routes, pressures and other criteria for the scope of work. The actual contract has not been signed due to fact of still negotiating terms. The authorization from the Board at the last meeting gave Mr. Bailey permission to negotiate the contract.

**BUDGET AMENDMENT:**

Upon a motion by Commissioner Clayton, and a second by Commissioner Bowes and majority vote, the Board of Commissioners of Person County does hereby amend the Budget of the General Fund(s) on this, the 15th day of September 2008, as follows:

<u>Dept./Acct No.</u>	<u>Department Name</u>	<u>Amount</u>
		Incr / (Decr)
<u>EXPENDITURES</u>	<u>General</u>	
	Building and Grounds	559
	Public Safety	5,621
 <u>REVENUES</u>	 <u>General</u>	
	Other revenues	559
	Intergovernmental revenues	5,621

**Explanation:**

Appropriate: Emergency Management Performance Supplemental Grant awarded to Emergency Management from the NC Crime Control & Public Safety \$5,621; insurance claim proceeds to repair electric motor at Library due to lightning damage \$559.

**CHAIRMAN’S REPORT:**

There was no report from the Chairman.

**MANAGER’S REPORT:**

Mrs. York stated that the Airport Commission will be meeting on September 29<sup>th</sup> at 10:30 p.m. in the Commissioner’s Room.

Additionally, Mrs. York noted she had received a list of Capital Projects from Person County Schools which will be added to the CIP list for consideration and discussion.

**COMMISSIONER REPORTS/COMMENTS:**

Commissioners Puryear, Bowes and Clayton had no report or comments.

Commissioner Yarborough mentioned the RPO with hopes the Thoroughfare committee will become more active. Also the Solid Waste Advisory Committee has made progress getting the recycling bins into schools noting soon the County will have to deal with issues regarding getting the recycling items from the school locations to the recycling site, etc.

**CLOSED SESSION:**

A **motion** was made by Commissioner Clayton, **seconded** by Commissioner Bowes and **carried** to go into Closed Session pursuant to G.S. 143-318.11(a)(6) to discuss the County Manager's Work Plan at 10:13 a.m. A 12 minute recess was given prior to Closed Session.

A **motion** was made by Commissioner Clayton, **seconded** by Commissioner Bowes and **carried** to return to Open Session at 10:53 a.m.

**ADJOURN:**

A **motion** was made by Commissioner Clayton, **seconded** by Commissioner Yarborough and **carried** to adjourn the September 15, 2008 meeting at 10:54 a.m.

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**Faye T. Fuller, CMC**  
**Clerk to the Board**

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**Johnny Myrl Lunsford**  
**Chairman**