

PERSON COUNTY BOARD OF COMMISSIONERS

May 5, 2008

MEMBERS PRESENT

OTHERS PRESENT

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

Steve Carpenter, County Manager
C. Ronald Aycock, County Attorney
Faye T. Fuller, Clerk to the Board
Brenda Reaves, Deputy Clerk to the Board

The Board of Commissioners for the County of Person, North Carolina, met in regular session on Monday, May 5, 2008 at 7:00 p.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:

A **motion** was made by Commissioner Clayton, **seconded** by Commissioner Yarborough and **carried** to approve the agenda as presented.

INFORMAL COMMENTS:

Frances Blalock, 1504 Surl–Mt. Tirzah Road – Gave an update from PCPRIDE. Jerry Ball’s aim is to have recycling in the schools by fall but he needs 60 recycling bins for the schools – PCPRIDE is holding a benefit on August 22, 2008 with the proceeds to go towards the purchase of the recycle bins for schools.

PCPRIDE is requesting the Board to take a serious look at placing a person at landfill to monitor, inspect and keep the county up-to-date on landfill activities.

APPROVAL OF MINUTES:

A **motion** was made by Commissioner Clayton, **seconded** by Commissioner Bowes, and **carried** to approve the minutes of the April 7, 2008 meeting.

ADMINISTRATIVE REPORTS:

A **motion** was made by Commissioner Bowes, **seconded** by Commissioner Clayton, and **carried** to approve and accept the Fire Marshal report.

**REVIEW OF A PROPOSED MAJOR SUBDIVISION CONCEPT PLAN
(HERITAGE HARBOR, SECTION 2) OFF OF HERITAGE HARBOR DRIVE
AND VARIATION REQUEST:**

Planning Director Paula Murphy appeared before the Board to present a request for approval for a major subdivision concept plan for Heritage Harbor, Section 2 and a variation to Heritage Harbor Drive. She explained that on July 28, 1988, the Board of Commissioners approved a Major Subdivision for Heritage Harbor with 20 lots. This current request is to develop property located adjacent to Heritage Harbor. The developer is also requesting a variation to the existing Heritage harbor Drive so that it does not have to be upgraded to NCDOT standards.

The property consists of 56.32 acres and 16, one-acre minimum lots are proposed. The road within the subdivision will be built to NCDOT standards. The property will have individual well and septic systems. The developer is asking for a variation for Heritage Harbor Drive so that it does not have to be upgraded to NCDOT standards. The road is tar and graveled but does not meet NCDOT requirements.

Ms. Murphy stated that if Board allows the entrance to the proposed subdivision to be entered off of heritage Harbor Drive, a variation to the Subdivision Ordinance will need to be obtained. Section 71-1 states "Where, because of topographical or other conditions peculiar to the site, strict adherence to the provisions of the regulations of this Ordinance would cause an unnecessary hardship (monetary considerations are not a proper criterion in determining unnecessary hardship), the subdivider may request a variation. Such request must be submitted in written form and explain the need for such variation.

Access to the site is across Heritage Harbor Drive (a private 50-foot right-of-way). This road was built to Class A standards. It has recently been paved with a tar and gravel but does not meet NCDOT standards. Section 50-1(d) of the Subdivision Ordinance states "Previously established subdivisions with six or more lots having an interior road or roads designated as public and built to the previously accepted and approved Class A as defined in "Minimum Construction Standards for Private Roads, Person County, North Carolina" may be expanded if any additional lots will be accessed by the existing Class A substandard road unless the existing public road is upgraded per paragraph 50-1 (a) above as applicable. The developer or person causing the needed upgrade to the Class A road is responsible for upgrading the substandard portion of the road." The new portion serving the proposed sixteen lots will be paved to NCDOT standards. These roads will not be taken over by NCDOT; therefore, a road maintenance agreement will be necessary. The developer will have to show that he has permission to use the existing access for this new subdivision.

The Planning Board reviewed this item at their April 10, 2008 meeting and recommended favorably both the subdivision and the variation with staff comments due to CP&L selling some properties and to add language that County Engineer can approve the road construction plans provided NCDOT refuses to review them due to Heritage Harbor Drive not being in the state road system.

The Planning Staff recommended that if the request is approved, the following conditions be included:

1. The roads are to be constructed to NCDOT standards. Road construction plans are to be submitted to and approved by NCDOT. A copy of the approved road construction plans are to be submitted to the Planning Department. The County Engineer to approve the road construction prior to the signing of the final plat. Board to make a recommendation on the requested variation.
2. An Erosion and Sedimentation Control Plan to be submitted to NCDHNR, Division of Land Resources, Land Quality Section and a copy of the approved plan to be submitted with the construction plan.
3. A Road Maintenance Agreement is to be prepared, reviewed and approved by the County Attorney prior to approval of the final plat.
4. All other requirements of the Subdivision Regulations of Person County, North Carolina be met prior to submittal of the final plat.

A **motion** was made by Commissioner Bowes, **seconded** by Commissioner Clayton and **carried** to approve the recommendation from the Planning Board with staff comments.

PRESENTATION OF PROPOSAL FOR RECYCLING EXPANSION:

Wanda Rogers of Person Industries and Ricky Hardee of Davco Steel, Inc., appeared before the Board to present a proposal for expanding the county's current recycling program and hours of operation. Ms. Rogers proposed to integrate recycling into a part of her business operation at PI. She said this could become Person County's MRF and could potentially have a positive cash flow in two to three years. Mr. Hardee presented a floor plan drawing for the MRF sort platform as well as projected costs for the operation.

A **motion** was made by Commissioner Clayton, **seconded** by Commissioner Bowes and **carried** to instruct Ms. Rogers to develop a business plan with costs and revenues, as well as an agreement with the equipment company, to be brought back to the Board for further study and consideration.

RESOLUTION APPROVING AN INSTALLMENT FINANCING CONTRACT, DEED OF TRUST, AND OTHER DOCUMENTS AND APPROVING AND AUTHORIZING CERTAIN ACTIONS IN CONNECTION WITH REFINANCING OF LAW ENFORCEMENT CENTER AND VARIOUS SCHOOL FACILITIES:

A regular meeting of the Board of Commissioners for the County of Person, North Carolina, was held in the Commissioners' Meeting Room in the Person County Office Building, in Roxboro, North Carolina, the regular place of meeting, on May 5, 2008, at 7:00 P.M.

Present: Chairman Johnny Myrl Lunsford, presiding, and Commissioners Jimmy B. Clayton, Larry E. Yarborough, Jr., and Larry H. Bowes.

Absent: Kyle W. Puryear.

* * * * *

Commissioner Clayton introduced the following resolution, a copy of which had been provided to each Commissioner and which was read by its title:

RESOLUTION APPROVING AN INSTALLMENT FINANCING CONTRACT, A DEED OF TRUST AND OTHER DOCUMENTS AND APPROVING AND AUTHORIZING CERTAIN ACTIONS IN CONNECTION WITH THE REFINANCING OF A LAW ENFORCEMENT CENTER AND VARIOUS SCHOOL FACILITIES.

WHEREAS, the County of Person, North Carolina (the "County"), is a validly existing political subdivision of the State of North Carolina (the "State"), under and by virtue of the Constitution and laws of the State; and

WHEREAS, the County has the power, pursuant to Section 160A 20 of the General Statutes of North Carolina, as amended, to (a) finance the purchase of real and personal property by installment agreements that create in the property purchased a security interest to secure payment of the purchase price to the entity advancing moneys for such transaction and (b) finance the construction of fixtures or improvements on real property by agreements that create in such fixtures or improvements and in the real property on which such fixtures or improvements are located a security interest to secure repayment of moneys advanced or made available for such construction; and

WHEREAS, the County entered into an Installment Financing Contract, dated February 16, 1996, with First Union National Bank of North Carolina (the "1996 Contract") to refinance the County's outstanding obligations under an Installment Payment Agreement, dated June 1, 1991, the proceeds of which were used to acquire, construct and equip a law enforcement center of the County (the "Law Enforcement Center Project"); and

WHEREAS, the County and The Person County Board of Education, a body corporate which has general control and supervision of all matters pertaining to the public schools in the Person County School Administrative Unit (the "Board of Education"), determined to cooperate in a plan to finance a portion of the cost of a project which each had found to be necessary and desirable to provide for improved public school facilities and improved public education in the County; and

WHEREAS, such project consists of the construction of two new elementary schools (Helena Elementary School and Stories Creek Elementary School) and the construction of additions to and the renovation of certain existing school facilities (the "School Project"); and

WHEREAS, in order to finance a portion of the cost of the School Project, the County entered into an Installment Financing Contract, dated June 3, 1999, with First Union National Bank (the "1999 Contract"); and

WHEREAS, in order to finance another portion of the cost of the School Project, the County entered into an Installment Financing Contract, dated January 25, 2000, with First Union National Bank (the "2000 Contract"); and

WHEREAS, the County has determined that it is in the best interests of the County to refinance a portion of the County's outstanding obligations under the 1996 Contract and all of the County's outstanding obligations under the 1999 Contract and the 2000 Contract, as more particularly described in the Installment Financing Contract hereinafter defined (collectively the "Obligations to be Refinanced"), in order to realize debt service savings for the County, and it is necessary to approve certain documents and approve and authorize certain actions in connection therewith; and

WHEREAS, there have been presented for consideration by the Board of Commissioners for the County (the "Board") copies of the following documents relating to such matter:

(a) a draft of an Installment Financing Contract, dated May 15, 2008 and between the County and Branch Banking and Trust Company (the "Installment Financing Contract"), under which Branch Banking and Trust Company (the "Bank") would advance funds to refinance the Obligations to be Refinanced and the County would be obligated to make Installment Payments (as defined therein) to repay the funds advanced to it and to make certain other payments, among other requirements, such obligations being subject to termination by the County under certain circumstances as provided therein;

(b) a draft of a Deed of Trust and Security Agreement, made and entered into as of May 15, 2008 (the "Deed of Trust"), which the County would execute and deliver to a trustee for the benefit of the Bank and which would encumber the sites of Helena Elementary School and Stories Creek Elementary School, which constitute a part of the School Project, and the improvements on such sites and certain related property, subject to certain exceptions, as security for the County's obligation to repay the funds advanced to it pursuant to the Installment Financing Contract;

(c) a draft of an Agreement Concerning the Refinancing of Various School Facilities, dated May 15, 2008 and between the Board of Education and the County (the "Administrative Agreement"), which furthers such plan to refinance the Obligations to be Refinanced; and

(d) a draft of a Lease, dated May 15, 2008 and between the County, as lessor, and the Board of Education, as lessee (the "Lease"), which provides for the lease by the County to the Board of Education of the sites of Helena Elementary School and Stories Creek Elementary School as a part of such plan to refinance the Obligations to be Refinanced; and

(e) a draft of an Escrow Deposit Agreement, dated May 15, 2008 and between Regions Bank, as escrow agent, and the County (the "Escrow Deposit Agreement"),

which provides for the deposit, investment and application of funds advanced to the County pursuant to the Installment Financing Contract to refinance the Obligations to be Refinanced;

NOW, THEREFORE, BE IT RESOLVED by the Board as follows:

Section 1. The Board hereby confirms that the Law Enforcement Center Project and the School Project and their use are essential for improved law enforcement and public education in the County and the Law Enforcement Center and the School Project will permit the County to carry out public functions that it is authorized by law to perform.

Section 2. The Board hereby finds and determines that it is in the best interest of the County to enter into the Installment Financing Contract, the Deed of Trust, the Administrative Agreement, the Lease and the Escrow Deposit Agreement (collectively the "Documents") in order to effectuate the refinancing of the Obligations to be Refinanced as described above.

Section 3. The form and content of the Documents, each of which will be a valid, legal and binding obligation of the County in accordance with its terms, are hereby approved in all respects and the Chairman of the Board, the County Manager of the County, the Finance Director of the County, the County Attorney of the County and the Clerk to the Board are hereby authorized and directed to execute and deliver the Documents, as may be applicable, in substantially the forms presented to the Board, together with such additions, changes, modifications and deletions as they, with the advice of counsel, may deem necessary and appropriate, and such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Board and the County; provided, however, that the due date of the final Installment Payment is not later than February 1, 2015 and that the aggregate amount of the principal components of the Installment Payments does not exceed \$14,685,000.

Section 4. In connection with the execution and delivery of the Documents and pursuant to the provisions of Section 16 of the 1996 Deed of Trust (as defined in the Installment Financing Contract), Section 3.9 of the 1999 Deed of Trust (as defined in the Installment Financing Contract) and Section 3.9 of the 2000 Deed of Trust (as defined in the Installment Financing Contract), the Board hereby requests Wachovia Bank, National Association (formerly known as First Union National Bank of North Carolina and as First Union National Bank), as the Beneficiary under the 1996 Contract, the 1999 Contract and the 2000 Contract (collectively the "Prior Contracts"), to release all of the Mortgaged Property (as defined and described in the 1996 Deed of Trust) from the lien and security interest created by the 1996 Deed of Trust, to release all of the Premises (as defined and described in the 1999 Deed of Trust) from the lien and security interest created by the 1999 Deed of Trust and to release all of the Premises (as defined and described in the 2000 Deed of Trust) from the lien and security interest created by the 2000 Deed of Trust as contemplated by the Documents. In connection with such request, the Board hereby states that the County desires each such release in order to realize debt service savings for the County, that the County has discharged its respective obligations to Wachovia Bank, National Association as such Beneficiary under Section 14 of each of the Prior Contracts and that the County will provide for the payment of all expenses in connection with each such release.

Section 5. The Board hereby approves, ratifies and confirms the actions of the County Manager, the Finance Director and the County Attorney of the County in connection with this matter.

Section 6. The officers and employees of the County are authorized and directed (without limitation except as may be expressly set forth herein) to take such other actions and to execute and deliver such other documents, certificates, undertakings, agreements or other instruments as they, with the advice of counsel, may deem necessary or appropriate to effectuate the transactions contemplated by the Documents.

Section 7. The County covenants that, to the extent permitted by the Constitution and laws of the State of North Carolina, it will comply with the requirements of the Internal Revenue Code of 1986, as amended (the "Code"), as applicable to the Installment Financing Contract except to the extent that the County obtains an opinion of nationally-recognized bond counsel to the effect that noncompliance would not result in the interest components of the Installment Payments being includable in the gross income of the recipient thereof under Section 103 of the Code, as more specifically provided in the Installment Financing Contract.

Section 8. If any section, phrase or provision of this resolution is for any reason declared to be invalid, such declaration shall not affect the validity of the remainder of the sections, phrases or provisions of this resolution.

Section 9. All motions, orders, resolutions, ordinances and parts thereof in conflict herewith are hereby repealed.

Section 10. This resolution shall take effect immediately upon its passage.

Upon motion duly made and seconded, the foregoing resolution was passed by the following vote:

Ayes: Commissioners Lunsford, Clayton, Yarborough and Bowes.

Noes: NONE.

* * * * *

I, Faye Fuller, Clerk to the Board of Commissioners for the County of Person, North Carolina, DO HEREBY CERTIFY that the foregoing is a true copy of so much of the proceedings of said Board at a regular meeting held on May 5, 2008 as relates in any way to the matters described therein. I HEREBY FURTHER CERTIFY that a schedule of regular meetings of said Board, stating that regular meetings of said Board are held in the Commissioners' Meeting Room in the Person County Office Building, in Roxboro, North Carolina, on the first and third Mondays of each month at 7:00 P.M. and 9:00 A.M., respectively, has been on file in my office as of a date not less than seven days before the date of said meeting in accordance with G.S. §143-318.12.

WITNESS my hand and the corporate seal of said County, this 5th day of May 2008.

Faye T. Fuller, CMC
Clerk to the Board of Commissioners

BUDGET AMENDMENT:

Upon a **motion** by Commissioner Clayton, and a **second** by Commissioner Lunsford and majority vote, the Board of Commissioners of Person County does hereby amend the Budget of the **General Fund(s)** on this, the 5th day of May 2008, as follows:

<u>Dept./Acct No.</u>	<u>Department Name</u>	<u>\$Amount</u> Incr/Dectr(-)
<u>EXPENDITURES</u>	<u>General</u>	
	Public Safety	3,910
	Human Services	2,574
<u>REVENUES</u>	<u>General</u>	
	Intergovernmental Revenues	5,084
	Other Revenues	1,400

Explanation:

Appropriate: additional EM grant funds \$2,510; donations to Sheriff \$1,400; and additional CP&L Crisis funds \$2,574.

CHAIRMAN’S REPORT

MANAGER’S REPORT:

- ▶ Budget work continues
- ▶ May 15th – Person-Caswell Lake Authority Cookout
- ▶ May 15th – MPA Intern reports to work with County
- ▶ June 10th – County Assembly Day
- ▶ Property and Casualty Rates are in – Workers’ Compensation rate due

▶ **GOVDEALS – RESOLUTION**

County Manager Carpenter reported to the Board that due to the quality of items, namely vehicles, now being sold under GovDeals the limit for sales should be increased. He presented a resolution authorizing items of less than \$30,000 to be declared as surplus. The resolution further set authorized the County Manager and Public Works Director to set the value of, sell and convey title of such items.

A **motion** was made by Commissioner Bowes, **seconded** by Commissioner Clayton and **carried** to adopt the Resolution Authorizing Disposal of County Surplus Property as follows.

RESOLUTION

AUTHORIZING DISPOSAL OF COUNTY SURPLUS PROPERTY

Whereas, the Person County Board of Commissioners desires to create an efficient and effective method to dispose of surplus County property, and;

Whereas, NCGS 160A-266 (via NCGS 153A-176) authorizes County Boards to designate county officials to declare property surplus and to sell same.

NOW, THEREFORE BE IT RESOLVED BY THE PERSON COUNTY BOARD OF COUNTY COMMISSIONERS THAT:

- 1- The County Manager and Public Works Director are authorized to declare items of less than \$30,000 as surplus.
- 2- The County Manager and Public Works Director are authorized to set the value of, sell and convey title to such items.
- 3- The Manager and Public Works Director shall keep a record of all items sold, the amount of sale and to whom sold and provide such record at least quarterly to the Board.

Adopted this the 5th day of May 2008.

Johnny Myrl Lunsford, Chairman

► REGULATION OF ALCOHOL ON COUNTY PROPERTY

County Attorney Aycock told the Board he had be contacted by the Parks and Recreation Department to research options regarding regulation of alcohol on county owned property. He explained that NCGS 18B-300 authorizes counties (and cities) to regulate or prohibit consumption of malt beverages (beer) and unfortified wine on property owned, occupied or controlled by the county. NCGS 18B-301 makes it illegal to consume fortified wine or spirituous liquor except by state permit or statutory exception. There is no authority for local regulation. Thus, the county has authority to regulate or prohibit the consumption of beer and unfortified wine on property it owns, controls or occupies. There is a general prohibition of any kind of alcohol on school property.

Following discussion, a **motion** was made by Commissioner Clayton, **seconded** by Commissioner Lunsford that the county enact a general prohibition of alcohol consumption on all county property.

Commissioner Yarborough expressed the opinion that certain arts venues would perhaps benefit from having alcohol available. He said he would like to see more value from these types of venues with a general prohibition except with a special occasion permit. He offered that in the form of **Substitute Motion**, but the motion **died** for lack of a second.

The **original motion carried** unanimously. County Attorney Aycock will draft the Ordinance to be brought back to the Board for final approval.

► **Wilson Ambulance Service:**

Ongoing discussion with EMS Director and Person Memorial Hospital Medical Director

COMMISSIONER REPORTS/COMMENTS:

Commissioner Yarborough: Recycling bins should be in all county buildings. A person at the landfill will not work any better than the last time. A volunteer should be trained to do surprise inspections. Commissioner Yarborough stated he would be willing to serve on Solid Waste Advisory Committee - Chairman Lunsford thereby appointed Commissioner Yarborough to the SWAC to replace Commissioner Puryear.

CLOSED SESSION:

A **motion** was made by Commissioner Clayton, **seconded** by Chairman Lunsford and **carried** to go into Closed Session pursuant to G.S. 143-318.11(a)(6) Personnel at 8:12 p.m.

Upon returning to open session at 8:51 p.m. no public statement was made by the Board.

ADJOURNMENT:

A **motion** was made by Commissioner Clayton, **seconded** by Commissioner Bowes and **carried** to adjourn the meeting at 8:52 p.m.

Faye T. Fuller, CMC
Clerk to the Board

Johnny Myrl Lunsford
Chairman