

PERSON COUNTY BOARD OF COMMISSIONERS

March 10, 2008

MEMBERS PRESENT

OTHERS PRESENT

Johnny Myrl Lunsford, Chairman
Jimmy B. Clayton, Vice-Chairman
Kyle W. Puryear
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, March 10, 2008 at 7:00 p.m. in the Commissioners' meeting room in the Person County Office Building.

Chairman Lunsford called the meeting to order.

PUBLIC HEARING:

Community Development Block Grant (CDBG) Closeout Public Hearing- Grant # 05-C-1370

A **motion** was made by Commissioner Puryear, **seconded** by Commissioner Clayton and **carried** to open the duly advertised Public Hearing.

County Manager Carpenter, in the absence of Ms. Dera Adair, explained that the Public Hearing is provided in accordance with the County's Community Development Block Grant Program #05-C-1370 for a total project cost of \$400,000, of which \$400,000 or 100% was financed by the Department of commerce, Division of Community Assistance. The CDBG Scattered Site Program was designed to assist low income homeowners at or below 50% of the area median income level, in rehabilitating their homes to safe, decent and sanitary living conditions in accordance with guidelines as established in the North Carolina Small Cities Rehabilitation Standards. All work has been completed.

Chairman Lunsford asked if there was anyone present who wished to speak to the issue. No one spoke in support or opposition.

A **motion** was made by Commissioner Bowes, **seconded** by Commissioner Yarborough and **carried** to close the Public Hearing.

DISCUSSION/ADJUSTMENT/APPROVAL OF AGENDA:

A **motion** was made by Commissioner Puryear, **seconded** by Commissioner Yarborough and **carried** to adopt the agenda as presented with no adjustments.

INFORMAL COMMENTS:

1. **Tera Slaughter, 114 Cottage Lane** - Spoke again of trees that had been cut on his property and other matters related to the Person Caswell Lake Authority. Asked Board to request that his concerns be reviewed by the Lake Authority.
Commissioner Puryear stated he would like to ask the Lake Authority to reassess the issues as outlined by Mr. Slaughter. Chairman Lunsford stated it would be appropriate to place discussion of that option on the next agenda for possible action.
2. **Chip King** – Speak about the proposed variance in the noise Ordinance – He is a professional racer and business owner and is familiar with how noise ordinances affects race tracks. Asked if there is anything that can be done to accommodate the dragway needs and it not be held to a stringent noise ordinance.

ADMINISTRATIVE REPORTS:

The following Administrative Reports were received and **accepted** by the Board: Airport, Emergency Medical Services, Inspections, Person Industries Annual Safety Report, Tax Administration & Collections by **motion** of Commissioner Puryear and **second** by Commissioner Yarborough.

RESOLUTION SUPPORTING IMPROVED RAILROAD RIGHT-OF-WAY ACCESS ALONG THE HIGHWAY 501 SOUTH CORRIDOR IN THE CITY OF ROXBORO AND THE COUNTY OF PERSON:

Jean Overton appeared before the Board to present a Resolution of Support for improved railroad right-of-way access along the US 501 South corridor. She said one major obstacle EDC encounters is lack of sites. There are some good sites that the owners are willing to sell if it was possible to get consistent cooperation from Norfolk Southern in order to open up the area for development.

RESOLUTION SUPPORTING IMPROVED RAILROAD RIGHT-OF-WAY ACCESS ALONG THE HIGHWAY 501 SOUTH CORRIDOR IN THE CITY OF ROXBORO AND THE COUNTY OF PERSON

Whereas, the thoroughfare corridor along Highway 501 has been identified as one key ingredient to long-term growth and development in the City of Roxboro and the County of Person; and

Whereas, the citizens of Roxboro are committed to making our community a place where people want to locate for jobs and for its quality of life; and

Whereas, the Strategic Plan adopted by the Roxboro City Council in 2006 specifically seeks to eliminate the unused railroad spur along Highway 501 for the purpose of encouraging economic development and to beautify the southern entryway into the City; and

Whereas, the section of unused railroad is about four miles in length and currently has 16 road cuts across the tracks. Eight of those crossings lie in a 1.6 mile section where the tracks have been removed; and

Whereas, we know Norfolk Southern is a community-conscious corporation and have been stellar partners when working with new industry that plan to make use of the services the railroad offer; however, we have found the real estate division to be significantly less concerned about the negative impact they make on future economic development opportunities in the City of Roxboro and the County of Person; and

Whereas, the leaders of the City of Roxboro, Person County, the Roxboro Uptown Development Corporation, the Roxboro Area Chamber of Commerce, and the Chamber's Economic Development Center would very much like to engage in open and fair dialogue with the railroad. Unfortunately, the response thus far from Norfolk Southern representatives (if any response is provided) is rarely one that encourages dialogue.

Now, Therefore Be It Resolved, the leaders of our community strongly support assistance or intervention from the Federal Railroad Administration so that we might be able to encourage a more cooperative spirit from representatives of the Norfolk Southern real estate division.

Adopted this 10th day of March 2008.
(signed)

Johnny Myrl Lunsford, Chairman
Person County Board of Commissioners

ATTEST:

Faye T. Fuller, CMC
Clerk to the Board

A **motion** was made by Chairman Lunsford, **seconded** by Commissioner Clayton and **carried** to approve the Resolution as presented.

REQUEST FOR VARIANCE IN NOISE ORDINANCE TO ACCOMMODATE ROXBORO DRAGWAY:

Wells P. King, King Law Group, PLLC, appeared before the Board on behalf of Henry Martin and Jerry Martin, trading as Roxboro Motorsports Dragway to request a variance of the Person County Noise Ordinance adopted on June 16, 1997. He said the dragway has been in existence since 1960 and has provided tangible economic benefits to the county and is a part of the history of Person County. The Martins have owned the dragway since 2003. Mr. King offered some proposed language and hours of operation for the Roxboro Motorsports Dragway.

Allen Carpenter, Manager of the dragway addressed race times and how the operation benefits the county's economy. He said the dragway employs approximately twenty-five people.

Sheriff Dewey Jones stated that he was not opposed to the dragway. He said his office has had several incidents with as many as fifteen calls per night in reference to the late running of races. He said his department needs a guideline by which to enforce the regulations

Commissioner Clayton made a motion that the Noise Ordinance be amended to allow the requested times and dates as offered by Mr. King and that the County Attorney bring the amended document back to the Board at the next meeting.

County Attorney Aycock said the language needs to be amended in the Ordinance, but cannot be drafted exclusively for Roxboro Dragway. Any amendment must apply uniformly across the county.

Chairman Lunsford instructed the County Attorney to meet with Attorney King and draft language for an amendment to the Noise Ordinance which the Board can consider at the next meeting on Tuesday, March 18, 2008.

LEASE AGREEMENT FOR SPACE IN OLD MAXWAY BUILDING:

A **motion** was made by Commissioner Yarborough, **seconded** by Chairman Lunsford and **carried** to approve the 15-year Commercial Lease Agreement by and between Person County Government and Hall's Agri Business, LLC for property known as the Old Maxway Building located at the corner of South Main Street and Abbitt Avenue in the City of Roxboro.

COMMERCIAL LEASE AGREEMENT

THIS LEASE, made this 10th day of March, 2008, by and between Hall's Agri Business, LLC, (Landlord) c/o C.T. Hall, Manager, PO Box 1061, Roxboro, NC 27573 and Person County, a North Carolina Local Government, (Tenant), who address is 304 South Morgan St., Roxboro, NC 27573.

WITNESSETH:

1. PREMISES

Hall's Agri Business, LLC (Landlord), owns certain property known as the Old Maxway Building located at the corner of South Main Street and Abbitt Avenue in the city of Roxboro, NC and Person County (Tenant) desires to lease the ground floor of such building containing 12,826 square feet. See attached Exhibit A for space plan and a more specific description and location.

2. TERM

The Tenant shall and hold the premises for a term of 15 years beginning on the 10th day of March, 2008 at midnight, unless sooner terminated as hereinafter provided. The first Lease Year Anniversary shall be the date twelve (12) calendar months after the first day of the first full month of the term hereof and successive Lease Year Anniversaries shall be the date twelve (12) calendar months from the previous Lease Year Anniversary. The Parties may renegotiate this lease at the end of its term.

3. RENTAL

Tenant agrees to pay Landlord or its Agent without demand, deduction or ~~of~~ set off, an annual rent of \$121,847 calculated at a rate of \$9.50 per square foot payable in equal monthly installments of

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March 10, 2008

\$10,153.92 in advance of the first day of each calendar month during the term hereof. Tenant's obligation for rent shall commence with the receipt of the Certificate of Occupancy and shall be prorated for the first month.

4. LANDLORD SERVICES

Landlord shall maintain the outside of the building (including roof) and adjacent sidewalk. Additionally, the Landlord shall be responsible for repairs to the HVAC and plumbing systems to the extent that they exceed \$250 per occurrence. Landlord will pay for the cost of Architectural Services and Renovations necessary to make the premises suitable for the Tenant pursuant to the plans attached as Exhibit B.

5. USE OF PREMISES

The Premises shall be used for normal governmental office purposes only and no other. The Premises shall not be used for any illegal purposes, nor in any manner to create any nuisance or trespass.

6. REPAIRS BY LANDLORD

Landlord agrees to keep in good repair the roof, foundation and exterior walls of the Premises and underground utility and sewer pipes inside and outside the exterior walls of the building, except repairs rendered necessary by the negligence or intentional wrongful acts of Tenant, its agents, employees or invitees. Landlord shall, throughout the term of this Lease, and any extension or renewal thereof, at its expense, maintain in good order and repair the Premises, including the building repair of broken water or sewer lines, heating and air conditioning equipment except as limited above (including but not limited to replacement of parts, compressors, air handling units and heating units) and other improvements located thereon). Landlord further agrees to replace the carpet in the building at the end of the 7th and 14th year of the lease.

7. REPAIRS BY TENANT

Tenant accepts the Premises in their present condition and as suited for the uses intended by Tenant. Tenant agrees to return the Premises to Landlord at the expiration or prior termination of this Lease, in as good condition and repair as when first received, natural wear and tear, damage by storm, fire, lightning, earthquake or other casualty alone excepted. Tenant will be responsible for all utilities, including electricity, gas, water, sewer, trash disposal, taxes and insurance on the building. Tenant will be responsible for ice and snow removal on sidewalks around the building and for repairing water or sewer line blockages. The landlord agrees to secure at least three competitive bids on insurance coverage every three years and to exhibit those bids to the tenant for review. Tenant will change the heating and air filters on a schedule recommended by the HVAC company. Tenant will also keep the building clean, painted and in First Class or Class A condition.

8. INSURANCE

Landlord shall during the term of this Lease and any extension or renewal thereof, and at Tenant's expense as provided for above, maintain in full force and effect comprehensive general liability insurance with limits of \$1,000,000 per person and ~~\$1~~1,000,000 per accident and property damage limits of \$1,000,000, which insurance shall contain a special endorsement recognizing and insuring any liability accruing to landlord under the first sentence of this paragraph and naming tenant as additional insured. Landlord shall provide evidence of such insurance to tenant prior to the commencement of the term of this Lease. Tenant shall also name Landlord as an additional insured under its policy of insurance against any liabilities it may incur as a tenant.

9. TENANT ACCESS

March 10, 2008

Tenant will be allowed access to the building to install telephone and computer wiring and other systems at Tenant's expense during renovation. Tenant shall make such installations in a timely manner so as to not unduly hold up the renovation work.

10. REMOVAL OF FIXTURES

Tenant may (if not in default hereunder) prior to the expiration of this Lease, or any extension or renewal thereof, remove all fixtures and equipment which it has placed in the Premises, provided Tenant repairs all damage to the Premises caused by such removal.

11. DESTRUCTION OF OR DAMAGE TO PREMISES

If the Premises are totally destroyed by storm, fire, lightning, earthquake or other casualty, this Lease shall terminate as of the date of such destruction and rental shall be accounted for as between Landlord and Tenant as of that date. If the premises are damaged but not wholly destroyed by any such casualties, rental shall abate in such proportion as effective use of the Premises has been affected and Landlord shall restore Premises to substantially the same condition as before damage as speedily as is practicable, whereupon full rental shall recommence. In the event of total destruction as set out above, the Landlord agrees that any insurance proceeds recovered for temporary replacement quarters will be paid to Tenant and that Landlord will endeavor to have such coverage inserted in insurance contracts.

12. CONDEMNATION

If the whole of the Premises, or such portion thereof as will make the Premises unusable for the purposes herein leased, is condemned by any legally constituted authority for any public use or purpose, then in either of said events the term hereby granted shall cease from the date when possession thereof is taken by public authorities, and rental shall be accounted for as between Landlord and Tenant as of said date. Such termination, however, shall be without prejudice to the rights of either Landlord or Tenant to recover compensation and damage caused by condemnation from the contemnor. It is further understood and agreed that Tenant shall not have any rights in any award made to Landlord by any condemnation authority.

13. ASSIGNMENT AND SUBLETTING

Tenant shall not, without the prior written consent of Landlord, which shall not be unreasonably withheld, assign this Lease or any interest hereunder, or sublet the Premises or any part thereof, or permit the use of the Premises by any party other than the Tenant. Consent to any assignment or sublease shall not impair this provision and all later assignments or subleases shall be made likewise only on the prior written consent of Landlord. The Assignee of Tenant, at option of Landlord, shall become directly liable to Landlord for all obligations of Tenant hereunder, but no sublease or assignment by Tenant shall relieve Tenant of any liability hereunder.

14. EXTERIOR SIGNS

Tenant is permitted to place signs upon the outside doors or walls of the Premises which identify the office or function performed at such premises. Any and all signs placed on the Premises by Tenant shall be maintained in compliance with governmental rules and regulations governing such signs and Tenant shall be responsible to Landlord for any damage caused by installation, use or maintenance of said signs, and all damage incident to removal thereof.

15. LANDLORD'S ENTRY OF PREMISES

Landlord may advertise the Premises "For Rent" or "For Sale" 90 days before the termination of this Lease. Landlord may enter the Premises at reasonable hours to exhibit same to prospective purchasers

or tenants and to make repairs required of Landlord under the terms hereof or to make repairs to Landlord's adjoining property, if any.

16. EFFECT OF TERMINATION OF LEASE

No termination of this Lease prior to the normal ending thereof, by lapse of time or otherwise, shall affect Landlord's right to collect rent for the period prior to termination thereof.

17. MORTGAGEE'S RIGHTS

Tenant's rights shall be subject to any bona fide mortgage, deed of trust or other security interest which is now or may hereafter be placed upon the Premises by Landlord. Tenant shall, if requested by Landlord, execute a separate agreement reflecting such subordination and shall be obligated to execute such documentation as may facilitate Landlord's sale or refinancing of the Premises, including, but not limited to, estopped certificates, subordination or attornment agreements.

18. QUIET ENJOYMENT

So long as Tenant observes and performs the covenants and agreements contained herein, it shall at all times during the Lease term peacefully and quietly have and enjoy possession of the Premises, but always subject to the terms hereof. Provided, however, that in the event Landlord shall sell or otherwise transfer its interest in the Premises, Tenant agrees to attorn to any new owner or interest holder and shall, if requested by Landlord, execute a separate agreement reflecting such attornment, provided that said agreement requires the new owner or interest holder to recognize its obligations and Tenant's rights hereunder.

19. HOLDING OVER

If Tenant remains in possession of the Premises after expiration of the term hereof, with Landlord's acquiescence and without any express agreement of the parties, Tenant shall be a tenant at will at the rental rate which is in effect at the end of this Lease and there shall be no renewal of this Lease by operation of law. If Tenant remains in possession of the Premises after expiration of the term hereof without Landlord's acquiescence, Tenant shall be a tenant at sufferance and commencing on the date following the date of such expiration, the monthly rental payable under Paragraph 3 above shall for each month, or fraction thereof during which Tenant so remains in possession of the premises, be twice the monthly rental otherwise payable under Paragraph 3 above.

20. RIGHTS CUMULATIVE

All rights, powers and privileges conferred hereunder upon parties hereto shall be cumulative and not restrictive to those given by law.

21. WAIVER OF RIGHTS

No failure of Landlord to exercise any power given Landlord hereunder or to insist upon strict compliance by Tenant of its obligations hereunder and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of Landlord's right to demand exact compliance with the terms hereof.

22. TIME OF ESSENCE

Time is of the essence in this Lease.

March 10, 2008

7

23. DEFINITIONS

“Landlord” as used in this Lease shall include the undersigned, its heirs, representatives, assigns and successors in title to the Premises. “Agent” as used in this Lease shall mean the party designated as same in Paragraph 34, its heirs, representatives, assigns and successors. “Tenant” shall include the undersigned and its heirs, representatives, assigns and successors, and if this Lease shall be validly assigned or sublet, shall include also Tenant’s assignees or sub lessees as to the Premises covered by such assignment or sublease. “Landlord”, “Tenant”, and “Agent” include male and female, singular and plural, corporation, partnership, or association or individual, as may fit the particular parties.

24. NOTICES

All notices required or permitted under this Lease shall be in writing and shall be personally delivered or sent by U.S. certified mail, return receipt requested, postage prepaid. Notices to Tenant shall be delivered or sent to the address shown at the beginning of this Lease. Notices to Landlord shall be delivered or sent to the address shown at the beginning of this Lease and notices to Agent, if any, shall be delivered or sent to the address set forth in Paragraph 3 hereof.

All notices shall be effective upon delivery. Any party may change its notice address upon written notice to the other parties, given as provided herein.

25. ENTIRE AGREEMENT

This Lease contains the entire agreement of the parties hereto, and no representations, inducements, promises or agreements, oral or otherwise, between the parties, not embodied herein shall be of any force or effect. This Lease may not be modified except by a writing signed by all the parties hereto.

26. AUTHORIZED LEASE EXECUTION

Each individual executing this Lease as director, officer, partner, member, or agent of an association, corporation, limited liability company, or partnership represents and warrants that he is duly authorized to execute and deliver this Lease on behalf of such association, corporation, limited liability company, or partnership.

27. MEMORANDUM OF LEASE

Upon request by either Landlord or Tenant, the parties hereto shall execute a short form lease (Memorandum of Lease) in recordable form, setting forth such provisions hereof (other than the amount of Base Monthly Rent and other sums due) as either party may wish to incorporate. The cost of recording such memorandum of lease shall be borne by the party requesting execution of same.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals, the date and years first above written.

Business Entity: PERSON COUNTY

PERSON COUNTY GOVERNMENT

(Name of Firm)

By: **Steve D. Carpenter** (SEAL)

Title: County Manager

Business Entity: Hall's Agri Business,LLC

(Name of Firm)

By: C. T. Hall, Jr. (SEAL)

Partner/Manager

Title:

CONSIDERATION OF A DATE FOR PUBLIC HEARING RELATED TO NAMING A PRIVATE ROAD:

A **motion** was made by Commissioner Yarborough, **seconded** by Commissioner Puryear and **carried** to set the date of April 7, 2008 at 7:00 p.m. for a Public Hearing to consider naming a private road off Jones Paylor Road. A third residence has been built on the road which precipitates the need for a name to be assigned to the road.

RENEWAL OF 9-1-1 CENTER PHONE EQUIPMENT LEASE:

Communications Director Hal Oakley appeared before the Board and presented a Services and Use Agreement, Contract No. 08RIVN7C852A, State and Local Government Certificate of Resolutions for approval. He said the county began leasing the phone switching and console equipment six years ago.

A **motion** was made by Commissioner Clayton, **seconded** by Commissioner Bowes and **carried** to accept the recommendation of the 9-1-1 Director and approve the Resolutions as presented.

REQUEST FOR ADDITIONAL FUNDING FOR EMERGENCY COMMUNICATIONS DEPARTMENT:

Communications Director Hal Oakley appeared before the Board to request additional funds to meet his departmental budget needs until the end of the fiscal year. He indicated that he will need an additional \$38,500 due to staffing overruns and other issues.

A **motion** was made by Commissioner Clayton, **seconded** by Commissioner Bowes and **carried** to approve the request and that \$38,500 be transferred from Contingency to cover the overage.

APPOINTMENT TO NURSING HOME ADVISORY COMMITTEE:

A **motion** was made by Commissioner Yarborough, **seconded** by Commissioner Puryear and **carried** to appoint Cleo Stukes and Linda Pulliam to one-year terms on the Nursing Home Advisory Committee.

WEBPAGE UPDATE:

Information Technology Director Gary Latta gave an update on changes made to the county's website. He told the Board that the webpage committee continues to meet and develop improvements to the site for improved user compatibility.

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 11th day of March 2008, as follows:

<u>Dept./Acct No.</u>	<u>Department Name</u>	<u>\$Amount</u> Incr/Decr(-)
<u>EXPENDITURES</u>	<u>General</u>	
	General Government	6,012
	Human Services	2,575
	 <u>Community Development Housing Revitalization Grant Fund</u>	
	Rehabilitation of Private Homes	(-) 100,000
	Relocation of Dwellings	83,000
	Clearance/Demplition	7,000
 <u>REVENUES</u>	 <u>General</u>	
	Other Revenues	2,575
	Fund Balance Appropriation	6,012

Explanation:

Appropriate: insurance proceeds for damage to Health Dept vehicle \$2,575 and unspent funds from last year for final payment on contract for new financial software \$6,012. Adjust budget lines in the Community Development Housing Revitalization. Fund

CHAIRMAN'S REPORT: None

MANAGER'S REPORT:

- ▶ Rules regulating smoking in public buildings and grounds will become effective 4/1/08
- ▶ April 18, 2008 Local Government Day – FEMA Shelter
- ▶ Tax Offices & Register of Deeds offices will be moving in fall- MHA Works will be in attendance at the next Board meeting to discuss renovations at courthouse
- ▶ Insurance Renewal - Brokers to meet back with Manager on Wednesday. Renewal rate increase anticipated to be 3-4% .
- ▶ Rental Agreements with mental health providers forthcoming.

COMMISSIONER REPORTS/COMMENTS:

Commissioner Clayton voiced concerns about the economy and a possible recession.

ADJOURNMENT:

A **motion** was made by Commissioner Yarborough, **seconded** by Commissioner Clayton and **carried** to adjourn the meeting at 9:15 p.m. as there was no further business to be conducted.

Faye T. Fuller, CMC
Clerk to the Board

Johnny Myrl Lunsford
Chairman