

PERSON COUNTY BOARD OF COMMISSIONERS
MEMBERS PRESENT

November 5, 2007
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
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, November 5, 2007 at 7:00 p.m. in the Commissioners' Room of 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.

RECOGNITION OF VOLLEYBALL TEAM: PROCLAMATION

A **motion** was made by Commissioner Clayton, **seconded** by Commissioner Puryear and **carried** to add to the agenda the approval of a Proclamation honoring the Person High School Girls Volleyball Team.

Chairman Lunsford recognized the team members, congratulated them on their State Championship and presented them with the following Proclamation.

PROCLAMATION
PERSON HIGH SCHOOL GIRLS VOLLEYBALL DAY IN PERSON COUNTY

WHEREAS, hundreds of Personians traveled to Reynolds Coliseum, Saturday, November 3, 2007 to witness the Person High School Rocket Girls Volleyball team face the Charlotte Myers Park Mustangs; and

WHEREAS, the Rockets were victorious in their 3-1 win over the Mustangs to earn the State 4A Girls Volleyball Championship; and

WHEREAS, the Person High School Rocket Girls Volleyball Team is the first volleyball team from Person County to ever advance to the State Finals and win two consecutive State championships, a feat no other team has accomplished; and

WHEREAS, the success of the 2007 Rocket Girls Volleyball Team can be credited to their individual talents, which was exhibited by the players' devotion and commitment to hard work and determination necessary to win; and

WHEREAS, Coach Sandy Mathews led her "*Dream Team*" to another remarkable winning season, whereby proving her motto "team work makes the dream work".

NOW, THEREFORE, the Person County Board of Commissioners hereby congratulates the 2007 Rocket Girls Volleyball Team for its outstanding season and expresses the gratitude of all of Person County for its accomplishments in winning the 4-A State Girls Volleyball Championship.

THEREFORE, Wednesday, November 7, 2007 is hereby declared *Person High School Girls Volleyball Day in Person County*.

(signed) **Johnny Myrl Lunsford, Chairman, Person County Board of Commissioners**

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

PUBLIC HEARINGS:

1. Request from Sara Poindexter to Rezone Tax Map A26, Parcel 11 on NC 57 (Semora Road) from Residential to Rural Conservation (RC)

County Planner Paula Murphy told the Board that the County received an application from Sarah Poindexter to amend the official zoning map. The request was to rezone Tax Map A26, Parcel 11 on Semora Road from Residential to Rural Conservation. If rezoned, all land uses permitted in the RC District would be allowed. The general intent of the RC District is to provide only limited land use controls in areas with limited non-agricultural development.

The Person County Land Use Plan's "Future Land Use Map" shows this area as Rural Residential/Agricultural (poor soils). It is defined as low-density residential (single site-built and manufactured homes); agriculture, forestry, churches; very limited commercial, office, or public/institutional uses meeting locational criteria. Locational criteria for non-residential uses within this land use category would include frontage and access to a major State highway or secondary road, proximity to similar uses and spatial separation from non-compatible uses such as existing residential development.

Section 160-5(B) of the Zoning Ordinance states: "The Planning Board shall provide a written recommendation to the Board of County Commissioners that addresses that the proposed amendment is consistent with the comprehensive plan.

Section 2.2.1 of the land Use Plan states "Encourage development of small service oriented commercial activities only at existing intersections or median crossovers on US 501 and other major thoroughfares. Section 2.2.2 states "Discourage strip commercial development by limiting highway access."

This parcel consists of 20,000 square feet (100' x 200'), therefore, it is a nonconforming lot. There is an existing single family dwelling located on the property.

There is a well and septic system on the property. If this property is developed for anything other than single family, it will have to meet the site plan requirements in Section 81 of the Zoning Ordinance. It should be noted that no parking will be allowed in the septic area which is the area to the rear of the existing structure.

Access to the site is on Semora Road (NC57). A driveway permit will be required by NCDOT for any changes to the use.

Typical uses permitted by right in the RC District are as follows: ABC store, retail sales, auto repair, auto sales, banks, bowling alley, builders supply, camping area,

carwash, construction trades, convenience store, dry cleaners, single family dwelling, restaurant, fire station/law enforcement center, professional office.

There are many other uses allowed with a Special Use Permit such as Planned Building Group, electrical generating facility, industrial operations, mobile home park, private recreation, etc. The storage of coal by-products is allowed with a Conditional use Permit.

If the property were to remain residential, the following uses would be permitted by right: single family dwelling, Class "A" and Class "B" manufactured homes, modular homes, family care homes, nursery operation, horse stables, etc.

The area is not located with a designated watershed and there are no one-hundred year flood areas on the property. The surrounding area is primarily farmland. At the intersection of Concord-Ceffo Road there are two businesses and a church.

The request is to rezone a 20,000 square foot lot with an existing single family dwelling from Residential to Rural Conservation. The lot in question is a nonconforming lot. The surrounding property is farmland with some residential uses. There are some commercial uses at the closest crossroads. The properties immediately adjacent are all zoned Residential. There are some properties along NC 57 that were rezoned to Highway Business approximately twenty years ago when there was only zoning for Hyco and Roxboro Township in Person County.

There are four factors in determining a reasonable basis for spot zoning. They are as follows:

1. Size of tract. The general rule is the small the tract, the more likely the rezoning will be held invalid.
2. Compatibility with Plan. Need to see if the rezoning fits into a larger context involving rational planning for the community.
3. Benefits and Detriments. Who benefits and who is harmed from the rezoning. Need to look at the property owner and the neighbors.
4. Relationship of Uses. Need to look at the relationship between the proposed uses and the current uses of adjacent properties.

Any change to the use of the property will require a site plan and the requirements of Section 81 (Site Plan Review) to be met. A new driveway permit from NCDOT will be required and the new use will need to meet the parking requirements.

The Planning Board held a Public Hearing on October 11, 2007 and voted 7 to 0 to forward to the County Commissioners with an unfavorable recommendation due to spot zoning.

Chairman Lunsford asked if there was anyone who wished to speak in favor or opposition to the request. No one spoke.

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

A **motion** was made by Commissioner Yarborough, **seconded** by Commissioner Puryear and **carried** to accept the recommendation from the Planning Board to deny the rezoning request.

2. Request from Force Protection Industries for a Variation From the Subdivision Ordinance Pertaining to Road Standards

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

County Planner Paula Murphy stated that the County received a variation request from Force Protection Industries to allow the abandonment of Cattle Drive and Katmandu Drive. In place of these two roads, a new fifty foot access easement will be created. Force Protection is asking for a variation to the Subdivision Ordinance to not require the new road to be built to NCDOT standards. Per Section 71 of the Subdivision Ordinance, it 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 hardship), the subdivider may request a variation.

Attached to the request was a letter from Neal Hamlett, Surveyor, addressing the issues. The justification listed was that Cattle Drive and Katmandu Drive presently do not meet the new required NCDOT standards.

The Planning Board held a Public Hearing on October 11, 2007 and voted 7 to 0 to recommend approval with the following staff conditions:

1. Road plans to be submitted to the Planning Department and approved by the County Engineer. Road construction to be approved by the County Engineer. Road entrance onto Halifax Road to be approved by NCDOT and a copy of the approval to be given to the Planning Department.
2. An Erosion and Sedimentation Control Plan to be approved by NCDENR and a copy to be presented to the Planning Department.
3. A copy of the Road Maintenance agreement to be presented to the County Attorney for approval.

County Planner Murphy stated that all of the items addressed by the Planning Board have been answered by Force Protection.

Chairman Lunsford asked for comments in favor or in opposition to the request.

Jim Stovall, Chairman Roxboro/Person County Development Board – This road was one of the incentives offered to Force Protection. It was required that the road be relocated as a requirement by the Department of Defense. Cattle Drive, which was a

fifteen foot prescriptive easement would be replaced by a fifty foot easement built to Class A specifications, which would be four inches of gravel. Cattle Drive has been replaced which connects unpaved roads at both ends. All property owners were agreeable to the road work. He said this request is for the second phase of the project which will be done at Force Protection's total expense if they so choose to. Force Protection is closing this week on other properties that would relocate a portion of Katmandu Drive. Force Protection would also provide a maintenance fund to guarantee maintenance of the road for a minimum of ten years.

No one spoke else spoke in favor or opposition of the request.

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

A **motion** was made by Commissioner Yarborough, **seconded** by Commissioner Puryear and **carried** to approve the request.

3. Request from Bryant and Katie Gravitte for a Change to the Road Standards Approved in the Special Use Permit for Holloway Landing on Bowmantown Road, Holloway Township

A **motion** was made by Commissioner Puryear, **seconded** by Commissioner Bowes and **carried** to open the duly advertised public hearing.

On September 13, 2007, Ernie Wood, surveyor, submitted a proposed change to the road standards that were approved for a Cluster Open Space (Holloway Landing) off Bowmantown Road, SR 1512, Holloway Township.

On June 4, 2007, a Special Use Permit was approved for Holloway Landing for a cluster Open Space Development. The parent tract is a 150 acre parcel owned by Bryand and Katie Gravitte. Access to the site is off of Bowmantown Road. The approved plan was to create 39 (.5 acre minimum) lots off of Bowmantown Road on Lake Mayo.

Each lot will be served by individual water and sewer. The approved plan was for roads to be built to NCDOT standards. Road plans for the subdivision have been reviewed and approved by the State. The Erosion and Sedimentation plan has been reviewed and approved by the State. The roads within the subdivision have been built. The developer is requesting that the road standards be lowered to Class "A" paved roads rather than NCDOT standards. This is permitted per Section 77-6 (minimum road design). The reason for the requested change is due to the contractor not meeting of the NCDOT requirements per the approved plans. The actual pavement, width and depth, does meet the NCDOT requirements. The developer would like to be able to record the plat and start selling lots while he works out the road issues with the contractor.

Since this is a change to the conditions set forth in the Special Use Permit, it required a revision to the Special Use Permit.

The Planning Board held a Public Hearing on October 11, 2007 and voted 7 to 0 to recommend the allowance of Class "A" roads in the Cluster Space Subdivision.

Ernie Wood, Summit Consulting Engineers, spoke in favor of the allowance of the Class "A" roads. He said the road did not meet NCDOT specifications due to a problem with the vertical alignment in one area. Other than that, there is nothing wrong with the road with the exception of this one item.

No one else spoke in favor or opposition to the request.

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

Commissioner Yarborough acknowledged that he is involved in land development on Mayo Lake and asked to be recused from voting as his involvement might constitute a conflict of interest.

A **motion** was made by Commissioner Clayton, **seconded** by Commissioner Puryear and **carried** to approve Commissioner Yarborough's abstinence from voting.

A **motion** was made by Commissioner Puryear, **seconded** by Commissioner Clayton and by a 4/0 vote to approve the allowance of Class "A" roads in the Cluster Open Space Subdivision.

DISCUSSION/ADJUSTMENT/APPROVAL OF AGENDA:

Commissioner Clayton requested to add discussion of Sections 80 and 81 of the Planning Ordinance relative to heating and air conditioning businesses in Industrial Zones.

Commissioner Puryear requested to add discussion of additional appointments to the Parks and Recreation Advisory Committee.

A **motion** was made by Commissioner Clayton, **seconded** by Commissioner Puryear and **carried** to add the two additional items to the Agenda.

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

INFORMAL COMMENTS:

No one spoke.

APPROVAL OF MINUTES:

A **motion** was made by Commissioner Clayton, **seconded** by Commissioner Bowes, and **carried** to approve the minutes of October 15, 2007.

ADMINISTRATIVE REPORTS:

The following Administrative Reports were received and accepted by the Board: Fire Marshal, Public Library, Tax Administration & Collections by **motion** of Commissioner Puryear and **second** by Commissioner Bowes.

APPOINTMENTS TO VARIOUS BOARDS AND COMMITTEES:

(At 6:00 p.m. the Board conducted interviews for applicants for the Animal Control Advisory Committee. There were six applicants, but only four appeared for the interview process.)

A **motion** was made by Commissioner Yarborough, **seconded** by Commissioner Bowes and carried to appoint Deborah J. Whitfield, Cherie Damron, Rhonda C. Beach and Virginia Stewart to Citizen-at-Large positions for an unspecified term on the Animal Control Advisory Committee.

A **motion** was made by Commissioner Yarborough, **seconded** by Commissioner Puryear and **carried** to add a designated slot on the Animal Control Advisory Committee for the Animal Cruelty Investigator (Kay Farrell).

N. C. OFFICE OF EMERGENCY MANAGEMENT – DRPP:

County Manager Carpenter told the Board that the Office of Emergency Management has formed a new committee to work on regionalized planning and support of emergency response. Person County is in District IV. Person County has been asked to submit names of individuals to serve on ten identified public safety response groups. He suggested the following individuals be named to the committee:

Jeff Insley, Chief of Police; Tommy Warren, Assistant City Manager; Kenneth Torain, Fire Chief; Janet Clayton, Health Director; Dewey Jones, Sheriff; Johnny Gentry, Fire Marshal; Steve Bray, Roxboro/Person County Rescue Squad; Michael Day, Emergency Services Director; Tracey Blivens, Person Memorial Hospital; Melissa Russell, Emergency Management.

A **motion** was made by Commissioner Bowes, **seconded** by Commissioner Clayton and **carried** to approve the recommended list of individuals to serve on the DRPP.

DISCUSSION OF SECTION 80 & 81 OF PLANNING ORDINANCE:

Commissioner Clayton told the Board that two businesses within the County have expressed interest in swapping business locations. However, HVAC businesses are not a permitted use in an industrial zoned district.

Ernie Wood, Surveyor, told the Board that there was a misinterpretation of the impervious surface at the location sought by the HVAC business. The original site plan showed an excessive impervious surface. He said the two business owners are negotiating the cost for the minor BMP's for compliance with standards. The business must comply with the Neuse River Watershed regulations. Paving issues are required by NCDOT must also be corrected.

Following a lengthy discussion, a **motion** was made by Commissioner Puryear, and **seconded** by Commissioner Bowes that the Board proceed with action to allow HVAC businesses in the Industrial District.

County Manager Carpenter reminded the Board that the proper process must be followed when making a zoning change in order to allow citizen input. Without a public hearing the public is left out of the process.

A **substitute motion** was offered by Commissioner Clayton, **seconded** by Commissioner Bowes to refer the matter to a Public Hearing to be scheduled for November 19, 2007. The motion **carried** unanimously.

ADDITIONAL POSITION ON RECREATION ADVISORY BOARD:

Commissioner Puryear informed the Board that he and Commissioner Bowes met with representatives of the county booster clubs. He told the Board that the booster clubs are concerned that their voices are not being heard by the Recreation Advisory Committee on certain issues. Commissioner Puryear then offered the following **motion** to add six additional positions (one from each booster club) with full voting rights to the Recreation Advisory Board. The motion was **seconded** by Commissioner Clayton.

Commissioner Yarborough expressed some concern about the substantial change in the number of Board members. However, Commissioner Puryear said the additional six members would allow for representation from over the county. Chairman Lunsford, who serves on the Recreation Advisory Committee, asked if these members were to be appointed without a recommendation from the Advisory Board. Commissioner Puryear said he did not see that it was necessary to listen to a recommendation from the Advisory Board. Chairman Lunsford said there is a process in place to make Board and Committee appointments when vacancies occur. He further asked if it was the desire of Commissioner Puryear to usurp that authority and appoint individuals to Boards without following the appointment process. Mr. Puryear said it was not his intent to override committees, but to place members in order for their voices to be heard.

The motion was **approved by a 4/1 vote** with Chairman Lunsford casting the dissenting vote.

BUDGET AMENDMENT:

Upon a motion by Commissioner Clayton, and a second by Commissioner Lunford and majority vote, the Board of Commissioners of Person County does hereby amend the Budget of the **General Fund(s)** on this, the 5th of November 2007, as follows:

<u>Dept./Acct No.</u>	<u>Department Name</u>	<u>\$Amount</u> Incr/Decr(-)
<u>EXPENDITURES</u>		
	<u>General</u>	
	Public Buildings and Grounds	10,000
	Public Safety	2,499
	Contingency – Undesignated	(-) 10,000
	Human Services (Health)	40,000
	Human Services (DSS-Carry forwards)	60,791
	Human Services (DSS grant adjustments)	(-) 241,569
 <u>REVENUES</u>		
	<u>General</u>	
	Intergovernmental Revenues	(-) 201,569
	Other revenues	2,499
	Fund Balance Appropriation	60,791

Explanation:

Appropriate" insurance proceeds to repair Sheriff's vehicle \$2,499; from Contingency to Central Services for Commissioner meeting room renovations \$10,000; new Health Grant for HIV / AIDS prevention initiatives \$40,000; various DSS carry forwards \$60,791 and grant adjustments (-)\$241,569.

CHAIRMAN’S REPORT: None

MANAGER’S REPORT:

- > Joint Meeting with Board of Education on Tuesday – 11/6/07
- > Farm City Week Breakfast on Wednesday - 11/7/07
- > Farm City Week Lunch on Friday – 11/9/07
- > Veteran’s Day Holiday on Monday – 11/12/07
- > Visioning Process with Animal Control – Tuesday, 11/13/07 @ 6:00 p.m.
- > Arts, Parks and Recreation and Soil and Water Conservation dinners – 11/15/07
- > Roxboro Florist has been sold to Homestead Country Florist - Lease to be advertised and approved at November 19, 2007 meeting.
- > County Attorney will lead the Landfill Public Hearing. He has drawn up procedures to be followed.

COMMISSIONER REPORTS/COMMENTS:

None

ADJOURNMENT:

A **motion** was made by Commissioner Yarborough, **seconded** by Commissioner Puryear and **carried** to adjourn the meeting at 8:34 p.m.

Faye T. Fuller, CMC
Clerk to the Board

Johnny Myrl Lunsford
Chairman