

**PERSON COUNTY BOARD OF COMMISSIONERS**

**JUNE 4, 2012**

**MEMBERS PRESENT**

**OTHERS PRESENT**

Jimmy B. Clayton

Heidi York, County Manager

Kyle W. Puryear

C. Ronald Aycock, County Attorney

B. Ray Jeffers

Brenda B. Reaves, Clerk to the Board

Samuel R. Kennington

Frances P. Blalock

The Board of Commissioners for the County of Person, North Carolina, met in regular session on Monday, June 4, 2012 at 7:00 p.m. in the Person County Office Building Auditorium.

Chairman Clayton called the meeting to order, led invocation and asked Commissioner Kennington to lead the Pledge of Allegiance.

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

A **motion** was made by Vice Chairman Puryear, **seconded** by Commissioner Jeffers and **carried 5-0** to add an item to discuss a proposal for a Resolution related to high speed internet to the agenda.

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

**CONSIDERATION OF THE ZONING AMENDMENT, SECTION 31, FALLS LAKE STORMWATER ORDINANCE FOR NEW DEVELOPMENT AND APPROVAL OF LOCAL STORMWATER ZONING MAP:**

Commissioner Kennington stated a letter had been received from NC State House of Representative Winkie Wilkins and asked for the letter to be read and included in the minutes. County Manager, Heidi York read the letter as follows:

Manager York,

Sorry it did not work for me to appear before the commissioners. Monday sessions are always in the evenings. I will do my best to answer the questions.

Item 1: All matters relating to Falls Lake water quality stem from Senate Bill 981, enacted in 2005. Senate passage, I believe, was by a 49-0 vote. The bill passed the House 113-2, with two mountain region reps dissenting.

SB 981 was the state's reaction to an EPA ruling that Falls Lake waters were "impaired," principally with chlorophyll. The consensus Senate bill passed easily, because without state action, the EPA would have moved on its own to rectify the situation. The Senate bill allowed the state to set the time frame for action.

Following passage of the Senate bill, a rules-making process was put into play. Legislators are typically not involved in the rules-making process and I believe that was the case in this instance. Person County had a very capable negotiator at the rules-making table and I am aware of some instances in which Person commissioners were briefed about the rules-making process.

Item 2: A core principal in the process was the need for adequate water quality and water flow monitoring. Monitoring was to give a definitive look at quality of water flowing from Person and Granville counties. Unfortunately, the current state budget reduced by almost two-thirds money to be used by the Division of Water Quality for water quality monitoring. I have already pointed that out to one of the Senate's chief budget writers and intend to follow up on that conversation. Adequate testing money within the budget is the key to determining Person County's situation and a timetable going forward.

Item 3: I believe, in this regard, the only information I can request is information about status of penalties. I will ask legislative staff to render an opinion.

I hope this helps. If there are other questions, I will attempt to answer them.

Winkie Wilkins

June 4, 2012

Ms. York told the Board the deadline to introduce local bills into General Assembly has past. County Attorney, Ron Aycock stated the NC Constitution prohibits local bills affecting health, environmental or physical, from being enacted. Mr. Aycock questioned if a local bill could be introduced exempting penalties, partial or entirety, as related to the stormwater rules.

Chairman Clayton pointed out the stormwater rules are already incorporated into the DENR rules which require Person County to incorporate into its zoning ordinance to be enforced noting the concessions to counties in the adopted consensus principles.

A **motion** was made by Chairman Clayton, **seconded** by Commissioner Jeffers and **carried 5-0** that the Person County Board of Commissioners finds that the proposed amendment is consistent with the Person County Comprehensive Plan in that it seeks to protect the environment and water quality and that action to adopt the proposed amendment is reasonable and in the public interest in that it does protect the environment and water quality as mandated by the state of North Carolina. And further that the Person County Board of Commissioners hereby adopts the amendment to the zoning ordinance entitled “The Falls Watershed Stormwater Ordinance for New Development” and the related amendments to the zoning map.

Commissioner Kennington stated his vote to approve the ordinance was in protest. Commissioner Kennington regretted Representative Wilkins was unable to attend the Board meeting but wanted to continually invite him to update the Board and to seek legislative help as Person County as goes forward with the stormwater process. Commissioner Kennington encouraged citizens to contact Representative Wilkins’ office to offer input.

Commissioner Blalock stated her vote to approve the ordinance was also in protest.

Commissioner Jeffers noted the charge of the commissioners by oath of office by law to enact the rules mandated by the State of NC. Commissioner Jeffers noted the rules approved by the Board were better than the rules originally proposed, to which Commissioner Jeffers commended Chairman Clayton and Representative Wilkins for having a part for those concessions. Commissioner Jeffers stated Person County could fight the process in the right way by gathering evidence and facts for the needed testing.

Vice Chairman Puryear stated his appreciation for the Planning Board and the Board for first voting against the stormwater rules. Vice Chairman Puryear noted his disappointment in the representation from the consulting firm for not conferring with the Board for approval. Vice Chairman Puryear stated under his constitutional oath, he was unable to vote against the ordinance. Vice Chairman Puryear told the group he would not vote to have Person County residents pay for any stormwater fees noting his support to have the fees be taken out of the General Fund Balance.

Chairman Clayton stated he has requested legislators to restore funding the Falls Lake sampling that was cut from DWQ's budget. Chairman Clayton noted one of the concessions was to allow Person County to provide sampling.

**PUBLIC HEARING:**

**FISCAL YEAR 2012-2013 MANAGER'S RECOMMENDED BUDGET:**

A **motion** was made by Commissioner Blalock, **seconded** by Commissioner Jeffers and **carried 5-0** to open the duly advertised Public Hearing for the Fiscal Year 2012-2013 Manager's Recommended Budget.

There were no individuals appearing before the Board to speak in favor of the Fiscal Year 2012-2013 Manager's Recommended Budget.

The following individuals appeared before the Board to speak in opposition to the Fiscal Year 2012-2013 Manager's Recommended Budget.

Mr. Alan Hicks of 205 N. Main Street, Roxboro addressed the Board on behalf of Roxboro Development Group (RDG) requesting consideration and support with additional funding to improve the Main Street central business district with a full time Director noting the current funding levels is a part-time Director. RDG's budget request is for \$36,000 each from the county and the City of Roxboro. Mr. Hicks confirmed for Commissioner Jeffers that the commissioner representative on the RDG Board has voting authority.

Ms. Michelle Solomon of 193 Morton Pulliam Road, Roxboro, and an employee of the Department of Social Services (DSS) for 2 months stated the need for additional staff noting the request for four full time staff in the budget request with only one position recommended by the County Manager. Ms. Solomon requested the Board to reevaluate this consideration for additional position to be added at DSS.

Mr. Larry Cole of Roxboro Area Merchants Association (RAMA) requested Board consideration to match the City of Roxboro's appropriation to RAMA at a minimum of \$3,500 or more to assist with the expense of replacing and expanding Christmas decorations for the Boulevard and Main Street areas. Mr. Cole confirmed for Commissioner Jeffers that the request would be recurring and RAMA is a non-profit.

Mr. Jay Jennings of 155 High Rock Road, Hurdle Mills gave the Board 2003 data indicating decreased nitrogen and phosphorous levels in Lake Michie and Flat River Watershed respectively. Mr. Jennings stated the lower watershed jurisdictions should be mandated to compensate financially the upper watershed jurisdictions for the water testing. Commissioner Kennington asked Mr. Jennings to send his data to the County Manager for distribution to the Board as well as consider reporting his data to Person County's state representatives. Commissioner Jeffers added the data should be sent to the federal representatives as well.

Judge Mark Galloway of 221 Crestwood, Roxboro requested the Board to fund the Drug Court program for \$50,000 as a bridge until such time a grant is secured noting if a grant is awarded; any county funds would be reverted back to the county. Judge Galloway stated Drug Court would not continue to operate past September 1 without additional funding. Judge Galloway stated this is a one-time request for an administrator position plus other costs related to drug testing. Chairman Clayton added that District Attorney, Wallace Bradsher, Jr. supported a one-time \$50,000 appropriation for Drug Court in the budget.

Mr. Ernie Wood of 470 Old City Lake Road spoke to the Board on behalf of Roxboro Area Chamber of Commerce and requested a \$2,000 appropriation for the Personality event to help with expenses. Mr. Wood asked the Board to consider it as economic development.

Mr. David Forsythe, Person County Group Homes (PCGH) Director, advocated for Board consideration to appropriate \$50,000 to serve the elderly population in Person County through the PCGH's Generations Adult Day Program. Mr. Forsythe asked the Board to consider non-governmental services as equal in value to government services.

A **motion** was made by Vice Chairman Puryear, **seconded** by Commissioner Jeffers and **carried 5-0** to recess the Public Hearing for the Fiscal Year 2012-2013 Manager's Recommended Budget until June 5, 2012 at 8:30 am in the Commissioner's Board Room.

#### **INFORMAL COMMENTS:**

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

Mr. Patrick Riley of 256 Hicks Yarboro Road, Roxboro had signed up to speak but was not present when his name was called.

Mr. Jay Jennings of 155 High Rock Road, Hurdle Mills told the Board the citizens need to know the impacts of the regulations passed by the Board this date in regard to the amendment to the zoning ordinance entitled "The Falls Watershed Stormwater Ordinance for New Development" suggesting the Board advertise and hold public meetings and invite all categories of professionals and citizens.

Mr. Ernie Wood of 470 Old City Lake Road noted his disappointment in the egregious legislation passed into law related to the Stormwater Rules.

**CONSIDERATION OF THE ORDINANCE ESTABLISHING A STORMWATER MANAGEMENT UTILITY FOR PERSON COUNTY WITH DRAFT STORMWATER UTILITY RATES:**

County Attorney, Ron Aycock stated the proposed Storm Water Utility Ordinance sets up a Person County system for fees and a mechanism for enforcement and funding. It establishes a dedicated utility enterprise fund that receives all the fees and provides for all expenditures. The monies can only be spent for storm water related purposes. The fee system is thought to be the most equitable financing method. It sets up a user pay system and is focused on the property that causes the most storm water problems paying the most. A property tax financing system would assess a cost based on the value of the property which may have little relationship to the storm water generating capacity of that property. The fee system proposed is two-fold: one set of rates is applicable to properties outside of the Falls Lake Watershed and another set of rates for those properties within the Falls Lake Watershed. There is a fixed charge per parcel and then a variable component based on impervious surface and gross land.

County Manager, Heidi York noted these proposed fees as outlined by the consultants can be used to offset the costs that will be required for coming into compliance with the stormwater rules. These costs are estimated to be between \$200,000 and \$250,000 annually over the next five years.

Chairman Clayton asked the Board for direction related to establishing the utility fund with the proposed fees. Chairman Clayton reiterated that the City of Roxboro is excluded from this regulation noting the City has their own ordinance and regulations with fees. It was the consensus of the Board to not impose any new tax or fee upon the county residents to fund the stormwater rules as mandated by the State of NC supporting the option to appropriate such expenses from the county Fund Balance or General Fund.

Mr. Aycock presented the Board with an option to enact an Ordinance Establishing a Stormwater Management Utility without any fees imposed to the residents, but funded through the appropriation from the General Fund. Ms. York clarified an enterprise fund would be self-supported by fees noting that is not the intent of the Board but to generate a separate fiscal account for the stormwater utility for any such appropriation to be used only for the expenditures related to the stormwater rules.

Chairman Clayton noted the need to establish the Stormwater Management Utility even if the appropriation for funding was not decided until a budget work session.

Commissioner Jeffers stated he would like to know the affect on the Fund Balance if \$250,000 were to be taken out to fund the stormwater.

Commissioner Kennington stated the Board voted to approve a moratorium on the Planning Ordinance to stop enforcement and asked if the Board could place a moratorium on the Falls Watershed Stormwater Ordinance for New Development. Commissioner Kennington added the Board approved the ordinance mandated by the State of NC and wanted to know if the Board could choose not to enforce.

Chairman Clayton asked the Board their desire related to the Ordinance Establishing a Stormwater Management Utility. Ms. York told the group the Ordinance Establishing a Stormwater Management Utility would require two readings if not approved unanimously. The second reading would be at the Board's June 18, 2012 meeting if not approved unanimously.

A **motion** was made by Commissioner Kennington, **seconded** by Commissioner Vice Chairman Puryear for a moratorium to be placed on enforcement the Falls Watershed Stormwater Ordinance for New Development. Chairman Clayton called Commissioner Kennington and his motion out of order as the issue before the Board is the Stormwater Management Utility.

A **motion** was made by Commissioner Jeffers, **seconded** by Commissioner Blalock and **carried 3-2** to adopt an Ordinance Establishing a Stormwater Management Utility. Vice Chairman Puryear and Commissioner Kennington cast the dissenting votes. The second reading of the Ordinance Establishing a Stormwater Management Utility without any fees will be placed on the Board's June 18, 2012 meeting agenda.

A **motion** was made by Vice Chairman Puryear, **seconded** by Commissioner Blalock and **carried 3-2** to add to the agenda an item for a moratorium on enforcement of the Falls Watershed Stormwater Ordinance for New Development. Chairman Clayton and Commissioner Jeffers cast the dissenting votes.

Vice Chairman Puryear yielded the floor to Commissioner Kennington to discuss the item added to the agenda. Commissioner Kennington reminded the Board that at the last meeting the Board desired more investigation of the Planning Ordinance and thereby placed a moratorium on the enforcement of that ordinance until further recommendation noting he would like to do the same by placing a moratorium on the enforcement of the Falls Watershed Stormwater Ordinance for New Development until the Board can obtain further information from Raleigh.

A **motion** was made by Commissioner Kennington, **seconded** by Vice Chairman Puryear for a moratorium on the enforcement of the Falls Watershed Stormwater Ordinance for New Development until the Board can obtain further information from Raleigh (State of NC).

Mr. Aycock stated the action related to a moratorium on the enforcement of the Planning Ordinance dealt with an existing county ordinance that prohibited multiple uses of zoned property recalling the action was to suspend enforcement until August 1 pending additional information. Mr. Aycock stated the Board, by adoption of the amendment, placed enforcement of the stormwater ordinance within Person County's zoning regulations. Mr. Aycock noted his opinion that Person County cannot suspend enforcement of the zoning that is mandated by the State of NC. For consideration, Mr. Aycock reminded the Board that failure to adopt the regulations may cause criminal and up to \$25,000 per day penalties. Another consideration for review would be if the Board's action to place a moratorium on the enforcement would be considered by the court a failure to adopt the regulations by the date set by the State of NC of July 15, 2012. Mr. Aycock told the Board to be criminally responsible, it would take an act of conscious intent not to abide by the law which questions does the motion on the floor lead to that conscious decision to fail to enforce the law.

Mr. Aycock requested time to research to give the Board a definitive opinion on what the affect of the passage of the motion on the floor would have.

A **motion** was made by Commissioner Kennington, **seconded** by Commissioner Blalock and **carried 3-2** to table the motion on the floor (consideration for a moratorium on the enforcement of the Falls Watershed Stormwater Ordinance for New Development) until June 18, 2012 at which time to receive the County Attorney's legal opinion. Chairman Clayton and Commissioner Jeffers cast the dissenting votes.

#### **ABC BOARD ADOPTION OF PERSON COUNTY TRAVEL POLICY:**

ABC Board Chairman, Mike Laws stated the NCABC Commission requires all ABC Boards to adopt either the state or appointing authority, Person County's Travel Policy. Mr. Laws requested the Board of Commissioners to approve Person County ABC Boards' adoption of the appointing authority, Person County's Travel Policy.

A **motion** was made by Commissioner Jeffers, **seconded** by Commissioner Blalock and **carried 5-0** to approve Person County ABC Boards' adoption of the appointing authority, Person County's Travel Policy.

County Manager, Heidi York noted the Person County Travel Policy applies to county employees and the ABC Board members noting the policy is not applicable to all boards and committees.

#### **BUDGET AMENDMENT:**

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



Upon a motion by Commissioner Jeffers, and a second by Vice Chairman Puryear and majority vote (5-0), the Board of Commissioners of Person County does hereby amend the Budget of the Fund(s) listed below on this, the 4th day of June 2012, as follows:

<u>Dept./Acct No.</u>	<u>Department Name</u>	<u>Amount</u> Incr / (Decr)
<u>EXPENDITURES</u>	<u>General Fund</u>	
	Public Safety	7,056
	Culture & Recreation	4,000
	Human Services	4,500
 <u>REVENUES</u>	 <u>General Fund</u>	
	Intergovernmental Revenues	4,500
	Charges for Services	3,846
	Other Revenues	7,210
 <u>EXPENDITURES</u>	 <u>Person Industries &amp; MRF Fund</u>	 30,073
 <u>REVENUES</u>	 <u>Person Industries &amp; MRF Fund</u>	
	Intergovernmental Revenues	30,073

**Explanation:**

Appropriating additional jail-related revenues received for support of expenses in the Detention Center (\$6,684); donations in the Sheriff's Department (\$372); miscellaneous revenues in Public Library for the Online Resources program (\$4,000); various adjustments in DSS programs (\$4,500); and additional Vocational Rehabilitation funds received in the Person Industries Fund (\$30,073).

**PROPOSAL FOR A RESOLUTION RELATED TO HIGH SPEED INTERNET:**

Vice Chairman Puryear told the group that he is planning to have a Resolution for Board consideration at its next meeting to formally request the General Assembly to introduce a bill for Person County similar to the House Bill 593 passed in 2011 to authorize Nash County to provide grants to promote broadband services in unserved areas for economic development in the county. Commissioner Jeffers suggested the County Attorney review if a law was passed preventing public/private entities to participate in such services.

**CHAIRMAN'S REPORT:**

Chairman Clayton reported an upcoming ribbon cutting at Tractor Supply on June 14, 2012 at 10:00 am. Chairman Clayton asked to Board as they receive the attorney's legal opinion on June 18, 2012 to consider continuation of the collaborative effort with the other jurisdictions related to the stormwater rules.

**MANAGER’S REPORT:**

County Manager, Heidi York reminded the Board of the Joint meeting with the City of Roxboro at 6:00 pm in the County Auditorium on June 7, 2012 as well as announced a Joint meeting with the Planning Board at 6:00 pm on June 14, 2012 in the Board’s meeting room. Ms. York congratulated the Health Department Director, Janet Clayton and the Health Department staff for their recent successful reaccreditation noting they are the first in the state to receive reaccreditation without any found deficiencies. The Board bid congratulations to the Health Department as well.

**COMMISSIONER REPORT/COMMENTS:**

Commissioner Kennington thanked Chairman Clayton for representing Person County well and for the many meetings, time and dedication to the issue related to the stated mandated stormwater rules noting his comments were not intended to be personal but to find any options to reverse the rules for Person County citizens.

Commissioner Blalock had no comments.

Commissioner Jeffers reported recent meeting/events he had attended:

- Good Morning Coffee Hour sponsored by the Habitat for Humanity
- EMS Celebration Lunch for 911, Fire Departments, EMS and Rescue personnel
- State of the Region Address regarding economic development

Vice Chairman Puryear had no comments.

Chairman Clayton announced that Timmy Baynes with the Kerr-Tar Regional Council of Government recently resigned.

**RECESS:**

A **motion** was made by Vice Chairman Puryear, **seconded** by Commissioner Jeffers, and **carried 5-0** to recess the meeting at 9:09 pm until June 5, 2012 at 8:30 am in the Board’s meeting room 215.

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Brenda B. Reaves  
Clerk to the Board

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Jimmy B. Clayton  
Chairman