

MINUTES

LENOIR COUNTY BOARD OF COMMISSIONERS

November 2, 2015

The Lenoir County Board of Commissioners met in open session at 9:00 a.m. on Monday, November 2, 2015, in the Board of Commissioners' Main Meeting Room in the Lenoir County Courthouse at 130 S. Queen St., Kinston, NC.

Members present: Chairman Craig Hill, Vice Chairman Jackie Brown, Commissioners, Roland Best, Mac Daughety, Reuben Davis, Eric Rouse, and Linda Rouse Sutton.

Members Absent: None

Also present were: Michael W. Jarman, County Manager, Martha Martin, Finance Officer, Vickie F. King, Clerk to the Board, Robert Griffin, County Attorney, Chris Harper, Special Projects Officer, members of the general public and news media.

Chairman Hill called the meeting to order at approximately 9:00 a.m. Ms. Brown offered the Invocation and Mr. Best led the audience in the Pledge of Allegiance.

Mr. Hill welcomed everyone to the meeting.

PUBLIC INFORMATION:

None

PUBLIC COMMENTS:

Ms. Janice Thompson, Owner, Clover City Internet Cafe, gave the Board of Commissioners a packet that contained over 700 petitions, county property separation restrictions, and an article from WITN. Ms. Thompson stated internet cafes should be treated like all other businesses in Lenoir County. The people who judge or have negative opinions of cafes are the people who have never been to one. If the hours of operations are limited on internet cafes, many employees will lose their jobs. I was told that someone wanted to place 1,000 foot zoning restrictions on internet cafes. In my research I found out that twenty seven (27) counties in North Carolina do not have restrictions or restrictions less than 375 feet. If the Board adopts harsh restrictions, then property owners of Lenoir County will be hurt. There are shootings in Lenoir County on a daily basis and any business or home could be robbed. If businesses were denied the right to operate out of fear of being robbed or because of shootings all businesses that handle money would need to close their place of business. In 2013, there were several incidents such as an armed robbery at the Kinston Salvation Army store and Sam's Mini Mart was robbed. Earlier this year a tobacco shop and a Dollar General were also robbed. Clover City Internet Cafe has taken the time to insure the facility is safe for the patrons.

This careful planning has insured the café is less likely, than any other business to be robbed as illustrated by our safety record in our Farmville facility. Ms. Thompson concluded by stating the Clover City Café has never had a robbery or shooting.

Mr. Phillip Caldwell, President, Aurora Technology, stated his company is a full wholesaler of phone time domestic and international branded phone cards. Mr. Phillip's stated he feels there are a lot of things people don't understand and take for granted regarding internet cafes/sweepstakes marketing. Aurora Technology has work station rentals, the ability for customers to print copies, fax and private internet usage. Most of the customers do not have access to high speed internet at home. Mr. Phillips concluded his comments by stating some believe that NCGS 14-306.4 is completely against promotional markets. However, he feels there are several exemptions carved out intentionally by the legislature.

Mr. Earl Spence stated he is a retired citizen of Lenoir County in favor of the sweepstakes. My wife and I are both retired and we don't have the finances to visit Vegas or other casinos. I don't buy lottery tickets because I can't afford them. However, I can go to the cafe and decide in advance how much I want to spend. I think the sweepstakes are a very good outing for the citizens of Lenoir County.

Ms. Ann Minkler stated she was born and raised in Lenoir County. Everyone has their own opinion regarding sweepstakes. I feel much safer at the sweepstakes than visiting East Kinston. There are shootings at schools and they are not closed down. I am in favor of keeping the sweepstakes open because my husband and I enjoy it. I hope you consider what I've said along with the others that have spoken in favor of the sweepstakes.

Mr. Cory Scott, sweepstakes owner, stated he has been in business for seven (7) years. I had the privilege of taking twenty-one (21) people out of the system and providing them with full time jobs with benefits. I have been involved in several other meetings in other cities regarding my internet cafes, and they made me close the doors to my business. That in turn forced me to look at several employees and tell them I am sorry, I have to let you go. My store in Kinston is secured with cameras everywhere; everyone that enters my facility feels safe, and I have not had any complaints. I feel restrictions placed on sweepstakes should not be any different than those on Bojangles or any other business in Lenoir County. We are all small business owners and entrepreneurs. I have a family and a six (6) year old son and a wife that I have to support. I choose to be an entrepreneur. When I entered this business seven years ago it was a business to support my family and other families as well. On Thanksgiving and Christmas we have given to Toys for Tots and the homeless shelter. We provide a lot of good things in the neighborhood always going above and beyond in whatever we do. Mr. Scott concluded his comments by stating his business complies with the law, and we have attorneys on our side that make sure everything in our system complies with the law. I finally have a legal business that allows me to support my family and help others.

CONSENT AGENDA:

1. Approval of Minutes: Regular Board Meeting: October 19, 2015.
2. Releases and Refunds to the Individuals Listed Herein.

Upon a motion by Ms. Brown and a second by Ms. Rouse Sutton, the consent agenda was unanimously approved. Common Consent

PUBLIC HEARINGS/RESOLUTIONS

Item No. 3A was a Public Hearing Regarding Community Development Block Grant (CDBG). Upon a motion by Ms. Brown and a second by Ms. Rouse Sutton a Public Hearing regarding Community Development Block Grant (CDBG) was entered into at 9:20 a.m. Common Consent

Mr. David Harris, RSM Harris and Associates, Inc., CDBG Project Manager, addressed the Board and asked if there were any comments. There were no comments from the Board. Upon a motion by Ms. Brown and a second by Ms. Rouse Sutton, the Public Hearing was closed at 9:20 a.m.

Item No. 3B was a Resolution approving an Equal Employment and Procurement Plan, Section 3 Local Jobs Initiative Plan, Language Access Plan and Section 504 Evaluation Plan related to CDBG Projects. Ms. Martha Martin, Finance Director, stated Lenoir County was awarded \$500,000 for the CDBG 2011 Catalyst Project on October 12, 2012 and \$225,000 for the CDBG 2012 Scattered Site Project on March 26, 2013. As a recipient of these funds, the County is required to prepare and approve various plans that relate to equal opportunity and non-discrimination in housing, employment, procurement and provision of services. Each of these plans is for a three year period, and if the County has open grants at the end of the three year period the plans have to be approved again for another three year period. Upon a motion by Ms. Brown and a second by Ms. Rouse Sutton, Item No. 3B was unanimously approved.

BUDGET ORDINANCE AMENDMENTS/RESOLUTIONS:

Item No. 4 was a Resolution Authorizing FY15-16 Purchase Order to Down East Protection Systems (DEPS) for Department of Social Services: \$4,400. Ms. Susan Moore, DSS Director, stated the DSS agency desires to replace the existing building access system. The current system is not working properly and we are unable to order a new motherboard because of the age of the system. This purchase is essential to the safety of DSS staff members. Upon a motion by Mr. Davis and a second by Mr. Best, Item No 4 was unanimously approved. Mr. Jarman stated DSS had a small fire at the agency last week. He commended Ms. Moore and her staff for clearing out each department and making sure each person was out of the building in a timely manner. Everyone handled it well and was able to return into the building.

Item No. 5 was a Resolution Approving the Purchase of Two (2) Lift Equipped Vans for \$113,000 (16-CT-034 funds). Ms. Angie Greene, Transit Director, stated on November 3, 2014, the Lenoir County Board of Commissioners approved a Resolution allowing Lenoir County Transit to apply to NCDOT for Community Transportation Grant funds for FY15-16. A portion of the grant was intended to replace vehicles that had met their useful life. N.C. Department of Transportation Division determined that replacement of two life equipped vans was necessary. The vehicles were purchased under Community Transportation Program and are funded 80% Federal, 10% State with a 10% local match. Upon a motion by Ms. Brown and a second by Ms. Rouse Sutton, Item No. 5 was unanimously approved.

Item No. 6A was a Resolution for the Sale of General Obligation Refunding Bonds in the Maximum Amount of \$24,500,000. Mr. Chris Harper, Special Projects Officer, introduced Mr. Bob Jessup, Bond Counsel, with Sanford Holshouser. Mr. Jessup stated Lenoir County has previously approved the issuance of general obligation refunding bonds to refinance all or a portion of the County's general obligation school bonds originally issued in 2008 ("Prior Bonds"). The County has solicited competitive proposals from banks and other financial institutions to purchase the Bonds, and Raymond James Capital Funding, Inc. has submitted the best proposal. Mr. Jessup stated we are asking the Board to adopt the sale of the bond and this will be the last step in this process. We Administration have searched for the best ways to save the county money, and so far we are approaching \$1,000,000 in savings. All bracketed terms and amounts will be completed after the final amount of the bond is determined on or about November 12, 2015. Upon a motion by Mr. Davis and a second by Mr. Daughety, Item No. 6A was unanimously approved.

Item No. 6B was a Bond Purchase Agreement pertaining to the County of Lenoir General Obligation Refunding Bond. Upon a motion by Mr. Davis and a second by Mr. Daughety, Item No. 6B was unanimously approved.

Item No. 6C was an Escrow Agreement dated as of November 1, 2015 between Lenoir County and Regions Bank. Upon a motion by Mr. Davis and a second by Mr. Daughety, Item No. 6C was unanimously approved.

Item No. 7 was a Resolution Approving Citizens to Boards, Commissions, Etc. Upon a motion by Ms. Brown and a second by Ms. Rouse Sutton, Item No 7 was unanimously approved for Michael Gregg Wiggins, Jr. appointment to the Lenoir County Board of Health, Amanda Seymour Sawyer appointment to Kinston/Lenoir County Parks & Recreation, and William Harvey Howard, Marva Brown, and Wilbert Bernard Johnson appointment to the Jury Commission.

Item No. 8 was items from the County Manager, Michael W. Jarman. Mr. Jarman stated included in the Boards packet for information is a letter of approval from the North Carolina Historic Group regarding Wyse Fork Battlefield Historic District. It is a national registry nominee, which has passed the advisory board from the State of NC Historic Group and has been approved. I had some conversation with our attorney and he can help fill in when necessary. I had conversation with Lawrence Abbott with North Carolina Office of State Archeology. I asked him about the restrictions it places on the land for our citizens. He mentioned two different kinds of properties, contributing and non-contributing within this 4,000 acres. Our concern is whether the entire 4,000 acres be classified historic. He said that only sixteen (16) of the properties listed in the 326 properties were contributing properties, and the others were non-contributing. He said that on the non-contributing areas, there were no restrictions on the sell or use of the properties at all, and on the contributing it only impacts them if there are federal/state permitting requirements or funding involved. I asked a few more questions to see if I could better understand that. For example I asked if I owned a farm and I wanted to subdivide my land how was that going to affect me. He said if it was in that district, the office of the state Archeology would look at the plans and most likely they would not say anything, but they could suggest some minor changes to the subdivision. That was the answer I received. So in asking, it does seem like you do have some restrictions but they can't say exactly what they are. When I think about federal and state permits, you think about going to the Corps of Engineers with the drainage, and if you need a drainage permit that needed the Corps of Engineers they would notify our office.

Again, there might not be any restrictions because the Corps of Engineers will not change what they do unless example: the CSS Neuse was actually on the property. I did question some of the notifications, because the process says that they should consult local authorities. I asked him what local authorities were contacted. I stated to him I was aware Chairman Hill received a letter. He said they sent a notification letter to the Chairman and to the Mayor of the City of Kinston. I told him sending a letter doesn't sound like consulting with local authorities to me. I had some further conversations with the county attorney because NCDOT classifies the properties as Section 4(f).

I further questioned Mr. Abbott and asked would everything in the 4,000 acres be designated 4f or is it just the contributing properties. I received an email about 9:10 a.m. today from him asking me to send that very question to an archeologist with NCDOT. So I will ask that question of him after this meeting. If it results in that designation on the entire 4,000 acres, then you as a Board may need to take some action because we expressed our concern before it was nominated. If it only places it on the contributing properties I think you may be ok. But at this point I can't make a recommendation until I get the answer to that questions as to what action you may need to take.

Mr. Griffin stated Mr. Jarman gave a very good summary. We remain quite concerned about whether this designation would prevent future highway projects from going through the 4,000 acres. Lenoir County and Lenoir County Economic Development certainly recognize the economic development value of the properties and that battlefield in particular. Our Economic Development Director, Mark Pope sent a letter to the National Registry Advisory Committee before they approved this expressing concern about the shape and parameters of this 4,000 acres. Mr. Griffin stated 4,000 acres is a huge piece of land. The NC Historic Group should specifically identify where the particular historic actions took place in relations to that battle, rather than drawing 4,000 acre plot. They apparently did not take action with this request and they went ahead and designated the 4,000 acres anyway. County Administration remains very concerned about this, and its' possibilities of keeping out any future highway projects. We don't know the answer to that yet, so we need to keep digging until we get that answer.

Mr. Hill stated he attended the meeting regarding the land and actually spoke and let them know that while we are supportive of the Battle at Wyse Fork, we were very concerned about the issue with the roads and how the 4,000 acres would impact a shallow by pass. They were very much aware of that. My concern arose from a person's comment with the archive. I mentioned that we really would like to find a way to compromise with this and her response was "we don't bend." I brought the information back to Mr. Jarman to move forward. As I think the battlefield is important, and we had some local historians to scout out 4,000 acres and looked for artifacts everywhere. I think we have been very supportive of historical properties and tourism has grown because of that. Our entire county has been depending upon the thoroughfare, and we come in support of a shallow bypass or whichever one it ends up being at some point in time. It would be a devastating blow to have to take that away from this community.

Mr. Jarman stated they met the guidelines of their notification process. If it involves fifty (50) or more people; they can put an ad in the local paper and hold a public hearing. That bothered me, and just for your comfort, if Lenoir County is taking an action like that we would have mailed notification to everyone in the affected area. Our concern with the way they did it is there are a lot of people that may not have seen the ad or did not know anything about it. I wish they would have done it differently. We were met with some of the same attitude that they shared with Mr. Hill.

Mr. Pope has been expressing concern from day one about the way it has happened and he has been pushing to see what we can do.

Ms. Rouse Sutton mentioned she had received a letter asking for support, but did not know all of the facts, and was wondering why they wanted to designate so much land.

Mr. Jarman stated when the meeting is over today, I will contact NCDOT archeologist and get his input. We have had contact with John Rouse with NCDOT early on in this process and he expressed concerns as to what this could mean if they preceded as designated.

Mr. Hill stated his initial response to this when they first contacted him was to be supportive. I was not part of the Board when they dealt with the properties on the bypass coming in and some of the history things with that. Once I attended the meeting I certainly did not give the support they requested. I stayed out of the issue. I do think they are very passionate about what they are doing. They gathered a lot of information, written two books about the Battle of Wyse Fork which is the second largest battle in the State of North Carolina. They are very involved and this is not a matter that we need to take lightly. I think we need to respond quickly and keep our eye on this.

Mr. Daughety stated this is significant because when they were initially deciding on the routes for the bypass, one of the routes had to be changed because it was coming into the proximity of the west side of Kennedy Homes which is under the historical registry. It will be difficult to build any roads on the south side of Lenoir County. Since we could lock out any potential grown in our area, I would like for John Rouse to come and address us and share his opinion regarding this matter.

Mr. Rouse asked if the Board could do a Resolution stating the Commissioners position as soon as possible so we would not get behind. Mr. Jarman stated the Board is already behind. The letter was received on the day of our last meeting. I think they received the nomination October 8, 2015, and they said the process required about forty five (45) days, and now it is close to the end of the process. I will say the nomination they sent had a lot of things documented within the seventy-five (75) pages. They have done a lot of work and the process itself is easy to support and harder to oppose if you look at the rules and regulations. They were asking for a letter of support, they welcomed anyone that had objections, but the objections needed to be written, notarized and when received they in turn would count them in relations to the number of property owners in the land and area. Now, I think it's a little harder to object to it. I think you can pass the Resolutions opposing the entire 4,000 acres if that's what you need to do and we can draft it and send it. I don't know what it would do. If we can talk to NCDOT and they state that the 4,000 acres get designated 4(f), you definitely need to be opposing it and making the people aware of what is going on.

Mr. Rouse stated the Board should do a Resolution opposing the entire 4,000 acres being classified as 4(f). Mr. Hill stated once Mr. Jarman gets his question answered the Board will know how to proceed. Mr. Daughety stated we should find out the location of the sixteen (16) 4(f) properties in relations to other potential projects.

Mr. Griffin stated it might be very helpful if we have John Rouse attend our next meeting and address some of the questions, and perhaps if we can get someone from the state historical agency as well since they are the ones striving to make this happen. I think if we got them both in the same room we could get a lot of questions answered.

Ms. Rouse Sutton stated it would be good to know how much the public and property owners are aware of what is going on and what that designation would mean to them as property owners.

Mr. Jarman stated he asked for the information as to the impact on the land owners. I also asked if they had written documentation. He sent me part of the information in an email and said he would send the other by mail because it was too large to send by email. My concern with all of this is the timing. If I speak with him today and he says everything in it becomes 4(f), then I think time gets of the essence. The forty five (45) day period is almost up and they can act quicker, and I don't think we have the luxury of waiting that long in sending something in opposition of it. I am open to suggestions.

Mr. Griffin stated my concern is this has already left Raleigh and on its way to Washington to be approved by the Department of Interior and once it has been approved by them you have a much harder time undoing this.

Mr. Daughety stated he would like to see a Resolution done today in opposition and send it to our legislators. If NCDOT was in charge every resident and business owner in that area would receive a letter and there would be a public hearing. This entire process needs to be refined by the NC Legislature. I would like to see a copy of the Resolution sent to our congressmen since it is going to the Department of Interior so they can get ahead of them.

Upon a motion by Mr. Daughety and a second by Mr. Rouse, the Board voted unanimously to approve a Resolution opposing approval of 4,000 acres of Wyse Fork Battlefield Historic District in its current form. The Board agreed the following should be placed in the Resolution:

1. They are in favor of the Battlefield but oppose it in its current form which includes 4,000 acres.
2. They would like more of a limited designation.
3. They would like to make sure it does not impede or interfere with our current road projects.

Mr. Jarman stated he received seven (6) letters of inquiry pertaining to the Golden LEAF Foundation Community Based Grants Making Initiative projects. The Chairman and Vice Chair will meet with me briefly after this meeting and take a look at the inquiries and we will keep the Board abreast with what we have going on as we move forward with the process.

Mr. Jarman stated the question was asked at our last meeting if the Land-Use Plan was updated. Mr. Wayland Humphrey with GIS/Planning & Inspections stated it was revised on July 1, 2011, and it does meet the need for what we need to do with grant applications. He also stated we have to do it every ten (10) years.

Mr. Jarman reminded the Board of the meeting for C.F. Harvey Parkway Extension on Thursday, November 19th from 10:00 a.m. to 12:00 p.m. at the Global Transpark. Mr. Hill stated there will be a public meeting on the same night from 4:00 p.m. – 7:00 p.m. at Kinston High School. Mr. Hill encouraged land owners that live in that area to attend the meeting because they will be providing information and gathering comments on the project. The project could move forward quicker than anticipated.

Item No. 9 was items from the County Commissioners. Mr. Rouse stated he would like to discuss the sweepstakes issue. I am not against businesses and I am not against people trying to making money and I am not against sweepstakes. I have seen the deputies in my area several times dealing with issues that have happened in the past. In my district after the shooting we had a number of people to sign a petition asking for some type of control, and regulations to get rid of sweepstakes. I would like to make it known that I am not in favor of abolishing them. However, I do feel like we do need to look at establishing some sort of control. I understand however the people that live in close proximity of those places do not feel the same way. It is our job as Commissioners to try and strike a balance between the people who enjoy that type of activity and those that don't.

What I am proposing based on looking at different counties is to limit activities. For those that are already in business to grandfather them in. Also, have a 1,000 foot buffer between residential areas, day care facilities, nursing homes facilities, and churches. I would like to see by 2:00 am that all activity cease similar to bar type activity, so people in residential areas can get some relief from hearing people talking, car doors slamming, and cars coming and going. That is my proposal and I would love to hear from my Commissioners.

Mr. Daughety stated he too agree if we pass a Resolution it wouldn't impact existing businesses since they would be grandfathered in. Mr. Hill asked Mr. Daughety if he would exempt the hours of operation as well. Mr. Daughety replied he would leave that up to the attorney. Mr. Griffin asked is their hours of operation limited now. Mr. Rouse replied no.

Mr. Rouse stated it was not my intent to exempt the hours of operations, just the location and zoning, which I patterned after Wayne county regulations, 1,000 foot, day cares, nursing homes, and hours of operations limited to 2:00 a.m.

Mr. Daughety made a motion to adopt a Resolution in regards to sweepstakes. Motion died due to lack of a second.

Mr. Griffin stated the Board needed to have a written Resolution in front of them in order to make a motion approving or adopting a Resolution. It's good to have the discussion on what you desire to do.

Ms. Sutton asked if it was fair to say the ones that are grandfathered in can stay open 24 hours and when you have a new owner to open tell them they can't. Mr. Rouse replied only to grandfather the location not the hours of operation. If they are within the 1,000 foot buffer, day cares, nursing facilities, churches, and residential areas, not hours because they would have to comply with that as well.

Mr. Griffin stated they will have to do some heavy sharpening to determine what a residential area is if it's one (1) house or fifty (50) houses. Mr. Daughety stated within the Wayne County guidelines it mentioned if it was a single residence it was permissible only if the resident signed the waiver, which is why I am in favor of the Wayne County's regulations.

Mr. Hill stated I have discussed this at lengths with Commissioner Rouse and I do see some areas and some limits. I also have great concerns over regulating businesses. I hope everyone understands that when you open up this can of worms this is not a can you can close back. You will begin to see other entities creep into this.

I think we have a Planning Board that probably needs to be a part of some of these meetings. They can spend more time on this issue and that is one of the purposes of that commission as well as how we utilize space and other things. I would recommend that we allow the Planning Board to be a part of this and come back with their recommendation. When you open a can of worms and say ok it becomes a bigger picture than this. If we are going to limit the hours to 2:00 a.m., how much of the income or percentage would these people be losing. Next what type of incidents have occurred from 2:00 a. m. – 9:00 a.m. that would support us in restricting/limiting the time.

Mr. Daughety stated he is not as concerned with the time as he is with the location. Mr. Hill suggested to pass this issue along to the Planning Board and let them bring back a recommendation to the Board to enable us to look at and clarify.

Mr. Griffin stated that is the purpose of the Planning Board for these types of issues. Lets' allow them to bring back one or two well thought out choices. Keep in mind that the Planning Board does not have the authority to pass or approve only the Commissioners can do that. Mr. Hill stated this would also allow both sides the opportunity to express their opinions. This is something that can have a snowball effect, so we need to give it ample time.

Upon a motion by Mr. Rouse and a second by Mr. Daughety, the Board approved to send the information to the Planning Board for recommendations.

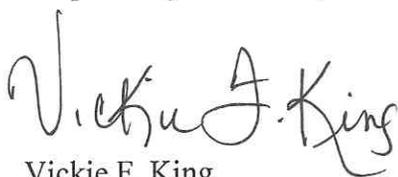
Mr. Hill congratulated the community on the opening of the African Music Trail. It was a great grand opening. We had great representation and it was a very nice program. A lot of our state officials were present. He encouraged everyone to go out and visit the park located on South Queen Street. Some of the musicians being honored were also in attendance.

Mr. Hill mentioned that Lenoir Memorial Hospital will not go into a management agreement with Noviant as previously planned. Both parties mutually agreed to move from the management agreement. Lenoir Memorial Hospital is now operating as an independent as it was in the past.

Upon a motion by Mr. Davis and a second by Ms. Brown, the meeting was adjourned.

Meeting Adjourned at 10:15 a.m.

Respectfully submitted,

A handwritten signature in black ink that reads "Vickie F. King". The signature is written in a cursive, flowing style.

Vickie F. King
Clerk to the Board