

MINUTES
TOWN OF PITTSBORO
BOARD OF COMMISSIONERS
APRIL 11, 2005
7:00 P.M.

Mayor Nancy R. May called the meeting to order. Commissioner Gene T. Brooks gave the invocation.

ATTENDANCE

Members present: Mayor Nancy R. May, Commissioners Max G. Cotten, Burnice Griffin, Jr., Clinton E. Bryan, Jr., Gene T. Brooks and Chris Walker.

Other staff present: Manager David Hughes, Clerk Alice F. Lloyd, Attorney Paul S. Messick, Jr. and Planner David Monroe.

AGENDA APPROVAL

Motion made by Commissioner Bryan seconded by Commissioner Walker to approve the agenda as presented deleting Item #2 and Item #4 until a later date (Scheduling a public hearing for a rezoning request and directing the Town Clerk to determine sufficiency of an annexation petition from William Steele III). Vote Aye-5 Nay-0

CONSENT AGENDA

Motion made by Commissioner Walker seconded by Commissioner Griffin to approve the consent agenda deleting the two items mentioned above.

1. Minutes of March 23, 2005 Board of Commissioners regular meeting.
2. Approve Conflict of Interest statement as required by the North Carolina Rural Economic Development Center in connection with their grant for the Environmental Assessment.
3. Approval of budget ordinance for amendments already approved.
Vote Aye-5 Nay-0

CONFLICT OF INTEREST STATEMENT IS RECORDED IN THE BOOK OF RESOLUTIONS NUMBER ONE, PAGE 47

BUDGET AMENDMENTS RECORDED IN BOOK OF ORDINANCES NUMBER ONE, PAGES 9-10

CITIZENS MATTERS

None

OLD BUSINESS

REZONING REQUEST – HEATH WILLIAMSON

Consider a rezoning request by Heath Williamson at 287 East Street (formerly Pittsboro Ice and Fuel). Mr. Williamson requests a change from M-1 to C-2.

Planner Monroe stated that the Planning Board was in agreement with Attorney Jennifer Andrews that this request represented a “down-zoning”. There was general consensus that C-2 zoning was more in keeping with the desired development pattern in this area and would be more consistent with existing uses. Based on that conclusion, the Planning Board voted unanimously to recommend that the Board of Commissioners approve the rezoning.

Motion made by Commissioner Walker seconded by Commissioner Griffin to approve the rezoning request from Heath Williamson at 287 East Street from M-1 to C-2.

Commissioner Brooks stated that in a letter from Attorney Jennifer Andrews she states that she has met with the adjacent property owner and the developer intends to address his concerns as plans for the site progress. Is this binding?

Planner Monroe stated Mr. Clower’s concerns will be addressed during the site plan review and that he will make sure the citizens concerns would be met.

Attorney Messick stated what is before the board tonight is the rezoning request. Attorney Messick stated the board could do anything that was not capricious or arbitrary.

Commissioner Brooks asked if we have legal rights to see the results of the state testing two wells on the site. He was told yes.

Vote Aye-4 Bryan/Walker/Griffin/Cotten

Nay-1 Brooks

MORATORIUM

Consider an ordinance establishing a moratorium on the approval of major residential subdivisions and non-residential development of land in the Town of Pittsboro and its Extra-Territorial Jurisdiction.

Planner Monroe stated the Planning Board discussed this at their meeting. There was a discussion of the tributary flow, paper flow (which includes projects for which DWQ has issued a permit), and obligated flow (for projects which the Town has approved and DWQ permits will be forthcoming or for which the Town has contractually agreed to reserve capacity). They discussed solutions which the Town is pursuing to resolve the capacity problem. The time frame for these potential solutions was considered.

The Planning Board members agreed that it was appropriate to consider allowing minor residential subdivisions (fewer than 6 lots involving no new road) to continue to be accepted for review but were conflicted about prohibiting new non-residential development for which there is no current allocation of wastewater capacity. The Town has a policy for identifying municipal utility allocations for existing buildings.

The Planning Board felt it should be reasonable to consider new non-residential development which would be equivalent to or less than a minor residential subdivision. They concluded that the average single family house is a three bedroom unit. Using the Town's formula to calculate capacity this would yield:

$$5 \text{ houses (minor subdivision)} \times 3 \text{ bedroom} \times 120 \text{ gal/bedroom} = 1800 \text{ gal/day}$$

The Planning Board also felt that the first sentence of paragraph two of Article VII ought to be revised to substitute "preliminary plat" for "sketch plan" in order to make the Ordinance more consistent with Town practices.

After the discussion the Planning Board unanimously voted to recommend that the Board of Commissioners approve the Ordinance Establishing a Moratorium with the conditions that:

Minor non-residential development (not to exceed 1800 gpd) be exempted from the prohibition; and the word "sketch plan" in sentence one paragraph two of Article VII be replaced by "preliminary plat".

The Planning Board further recommended that the term of the moratorium be utilized to revisit the Land Use Plan, Zoning Ordinance and Subdivision Regulations to examine change which would render them more useful.

Motion made by Commissioner Walker seconded by Commissioner Griffin to approve An Ordinance Establishing a Moratorium with the planning board recommendation that:

Minor non-residential development (not to exceed 1800 gpd) be exempted from the prohibition; and

The words "sketch plan" in sentence one paragraph two of Article VII be Replaced by "preliminary plat".

Commissioner Brooks asked if under this moratorium there would be no commercial.

Commissioner Cotten said it will permit commercial up to 1800 gallons per day.

Commissioner Cotten asked if this moratorium is approved will we continue to accept and review any plans that might be brought in.

Manager Hughes stated if they do not conform to the definition he doesn't believe we have to review them if they are exempt and he thinks we would if they were a minor subdivision or a commercial development less than 1800 gallons wastewater we are obligated to review it.

Attorney Messick stated he agreed.

Commissioner Cotten (addressing Attorney Messick) stated he would be addressing his pet peeve about the whole thing and it concerns Powell Place again. He knows that the board is tired of it but it has been a thorn in his side ever since it was done. If they (developers) do not apply for capacity meeting the state requirements can they transfer capacity to others based on this contract we have with them?

Attorney Messick stated he is not sure how that is covered by the moratorium. The moratorium exempts any project that already exists that has received master plan approval which would include Powell Place, it will also include Toll Brothers property. Capacity has nothing to do with this.

Commissioner Cotten stated is does and it does not. Really don't see why we need a moratorium as it stands right now. The state does not recognize the 162,000 we are holding in reserve because no capacity has been applied for with the state. At the last report the state uses averages, we were only treating 52% it has only gone up about 2% in 18 months. Don't feel like we need the moratorium. Not until the capacity is increased that we are treating. He is aware there is a cut off at 100% when you reach paper flow. Paper flow is not going to be recorded until the Powell Place submits request for site capacity. From his understanding they will approach from a Phase standpoint. They could (according to contract with them) space this out 20 years maybe longer unless there is something we can do with the contract. That would be another story.

Attorney Messick stated the purpose of this ordinance is spelled out on page one. He gathers you (Commissioner Cotten) question that.

Commissioner Cotten stated yes he does.

Manager Hughes stated that we need to reserve capacity for Powell Place because we have a contract. We may not violate the contract this year or next year, but if we keep approving projects we will violate it. We have a legal contract that is binding and we will in all likelihood be sued. He is trying to protect the Town from having that done. Trying to act in good faith to the contract.

Commissioner Cotten believes if the contract was challenged in court we would lose, that's all he is going to say about it.

Vote Aye-4 Brooks/Bryan/Griffin/Walker
Nay-1 Cotten

AN ORDINANCE ESTABLISHING A MORATORIUM ON THE APPROVAL OF SUBDIVISIONS AND NON-RESIDENTIAL DEVELOPMENT OF LAND IN THE TOWN OF PITTSBORO AND ITS EXTRATERRITORIAL AREA IS RECORDED IN THE BOOK OF ORDINANCES NUMBER ONE, PAGES 13-18

SITE PLAN – PLATINUM HOLDINGS

Consider a site plan for Platinum Holdings. The property is on Thompson Street immediately north of 959 East Street (formerly DJ Entertainment).

Planner Monroe stated the Planning Board found that the proposed site plan complied with the requirements of the zoning ordinance and recommended that the Board of Commissioners approve the plan with the conditions that:

The ten foot paved area behind the existing office building and the turn around area at the northeast corner of that site be removed;

An easement for the drainage swale along the east property line be defined and recorded.

Motion made by Commissioner Walker seconded by Commissioner Griffin to approve the site plan for Platinum Holding with the condition that ten foot paved area behind the existing office building and the turn around area at the northeast corner of the site be removed and that an easement for the drainage swale along the east property line be defined and recorded.

Vote Aye-5 Nay-0

NEW BUSINESS

BUDGET AMENDMENT

Consider budget amendment for items not previously approved.

Manager Hughes explained the need for the budget amendment.

Commissioner Cotten asked if it should not come out of the water fund.

Manager Hughes stated that the subdivision review fees we collect for sidewalks, streets, curb and gutter and water and sewer lines are posted to an account in the general fund.

Motion made by Commissioner Brooks seconded by Commissioner Bryan to approve the Ordinance Amending the 2004-2005 Operating Budget.

Vote Aye-5 Nay-0

AN ORDINANCE AMENDING THE 2004-2005 OPERATING BUDGET IS RECORDED IN THE BOOK OF ORDINANCES NUMBER ONE, PAGES 11-12

**COMMENTS REGARDING ARTICLE IN THE CHATHAM RECORD
WRITTEN BY COMMISSIONER COTTEN**

Mayor May stated she would like to answer Commissioner Cotten's letter he printed in the paper.

Mayor May stated that Charlie Horne, Bunkey Morgan, herself and David Hughes met here at Town Hall to plan an agenda for the joint meeting and in the conversation they wondered if the County could do something to help keep Toll Brothers from leaving. They knew it had been a problem with paying \$10,000/month for the lease so Mr. Morgan said that maybe the County would be interested in helping the Town out by paying \$5,000 month. He carried it before his Commissioners and they agreed to do that to help us out with the lease so we could retain Toll Brothers because it means as much to them as it does to the Town of Pittsboro.

COMMISSIONER CONCERNS

Commissioner Walker stated he too would like to address the letter to Pittsboro residents and Chatham County Commissioners printed in the April 7 edition of the Chatham News & Record. Some of the comments Commissioner Cotten has made again going back to what Mayor May said thank you Mayor and County Commissioner Bunkey Morgan for what he perceive to be doing your job. We have obtained potentially \$300,000 for a potential spray field. The spray field is not something that has been going on behind closed doors or in secret. This board has been discussing potential spray field for over a year period of time. He wants to thank the Chatham County Commissioners for a 5-0 vote in favor of potentially giving us \$300,000, he assumes if we don't do the spray field we won't get the money. Thank you that's \$300,000 of the taxpayers/citizens money right back to us.

Commissioner Walker wanted to further address the issues when Mr. Cotten talks about potentially bankrupting the Town and rising water bills could be unbearable. Personally he thinks our water bills are very unbearable today. We lost our number one water customer a few years ago, they constituted about 51-52 percent of our annual revenues. The Town failed to negotiate an agreement with 3M numerous years ago. Lee County is now running that water to 3M there was a chance to offset some of that loss. Our Town is not prepared for the future – the future is here. Not only is this current board trying to prepare for the future for the next 20-25 years for our children and grandchildren we are also trying to play catch up from the past. Our water lines breaks are infamous our sewer lines as you already know are in bad repair. Our water plant has not had a major upgrade in almost 20 years. Our sewer plant according to the State of North Carolina is polluting Roberson Creek. Our water bills are going to rise, they have risen, this board last year voted to increase water bills about 20%.

Commissioner Walker stated he is afraid we are probably going to be in the same boat again this year and it has nothing to do with the spray field it has to do with the lack of preparation in the past for the future. Also in regards to the 3M project he thinks that's really another one that Mr. Cotten tried to stop at the state level. Folks we are going to get \$4.3 million dollars worth of improvements to our sewer plant right now. Our sewer plant can really only process about 450,000-550,000 gallons per day without it "choking down". By choking down he means if we get too much in there it chokes down and our performance/efficiency level drops. We are basically getting \$4.3 million dollars for a potential cost to Pittsboro of \$617,823.75 as Mr. Cotten puts it, he would say that is fair trade. Not only are we getting an upgraded sewer plant. The Town of Pittsboro could not have done this on our own. We don't have that kind of money lying around. It also allows us to sell the reuse water to 3M. The EPA/State of North Carolina was behind this project quite a bit. This is where the grant money came from. This will allow 3M to turn the final product into steam instead of those 200,000 gallons or so per day being discharged into an impaired creek that water will be able to hopefully be transferred up into a product of steam – trying to help the environment on that end.

Some cost Mr. Cotten put in of 2.00/thousand gallons per day treatment cost. He had a conversation today and found out our contract is for 3 million gallons monthly that would reduce our cost based on an economy scale down to about \$1.57. Yes, we may be losing seven cents on that deal, but he thinks a trade off for \$4.3 million dollars for our cost of \$617,823.75 is well worth it. Don't know that the whole story was put in here, but that's his two cents. It is going to be difficult for this Town going forward. We have not prepared for the future in the past, we are trying to do both at the same time. He certainly hopes that the project down at the plant (the 3M project) will allow us to now be able to treat water more efficiently and at a higher level (not new capacity) to allow us to bring in new neighborhoods such as Powell Place that can offset the cost for the rest of the taxpayers here in this Town. To him it is basic economics whether we grow today or not

we are going to have to replace water pipes, we are going to have to replace sewer pipes, we are going to have to have major upgrades at the water and sewer plants. He would certainly like having 1,000 people pay for those cost than 100. Thank you.

Commissioner Bryan stated that he believes Commissioner Walkers comment about the water line coming from Sanford the Town was not aware of that before it happened.

Commissioner Cotten stated we were bypassed on that, they went to Lee County without talking with us. You don't know the background on that.

Commissioner Brooks stated that is his understanding (Commissioner Cotten's comment) he would agree that 's what happened. Many of your premises are on target (Commissioner Walker) but he would like to tell you this – there has been planning since long before he came on this board. Going back to Lea Powell when he took a big leap and went to the river with this board. And there has been a lot of planning, but the State (LGC) determines how much money you can borrow.

Commissioner Brooks stated this Town has borrowed money in the past, it has gotten grants and participated in the Revenue Sharing program he thinks, he knows the County did. We have tried we knew some of this was coming and we had to prepare but given the population, tax base and the ability to borrow we couldn't do much more than we have done. It has not been a failure of planning he doesn't feel and he is not making excuses. He thinks it has been that they have done the best they could with what we have. Also, warn you, anyone that thinks growth of the "mac-a-muffins", "mac-a-mansions", a cookie cutter houses they are going to build up there are going to solve all the problems of Pittsboro and Chatham County he would suggest that they look at Chapel Hill – their school budget is \$5 million in the hole. Look at Wake County where they don't even know what they are going to do, they don't even have enough money to operate. Growth does not necessarily mean lower taxes if it did Cary/Raleigh/Chapel Hill would have some of the lowest in the state. Right now Chatham County appears to be in some kind of a race to be in the top number of counties tax wise. He is not opposed to these things he is glad about the 3M project, he voted for that, glad about upgrading the sewer capacity and all these other things. But he has to defend this Town going back for many years it has done the best it could with what it had. It has not sat around and done no planning he considers that an insult to past Commissioners, past Mayors and to himself and he disagrees with it strongly.

Commissioner Cotten stated he stands behind what he published at considerable cost to himself. He has documents in his files backing up everything he said. If anyone wants to look at them they can. As long as you make an appointment in advance so he can get them together.

Commissioner Cotten stated the white building next to the tennis courts that was donated to the Town (former railroad office) is being vandalized greatly. It needs to be removed/repared or something.

Commissioner Cotten stated he was asked by a citizen if he knew what the County is planning to do with the yellow house, this is a historical house. Rumor is out that the County is going to build their Justice building where that yellow house is.

Commissioner Brooks stated Renee Dickson wrote a letter to the Historical Association stating they have no plan to remodel the house.

Manager Hughes stated the Lowe's Home Improvement folks will review this site on May 3. The water plant has had some equipment failures in the last couple of weeks.

Commissioner Cotten stated that may answer a call he received from someone complaining about the taste of the water today they said it was stronger than usual.

Manager Hughes stated the budget process will begin shortly.

ADJOURNMENT

Motion made by Commissioner Brooks seconded by Commissioner Cotten to adjourn.

Vote Aye-5 Nay-0

Nancy R. May, Mayor

ATTEST:

Alice F. Lloyd, CMC, Mayor