

STATE OF NORTH CAROLINA)
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COUNTY OF STOKES)
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OFFICE OF THE COMMISSIONERS
STOKES COUNTY GOVERNMENT
DANBURY, NORTH CAROLINA
JANUARY 15, 2010

The Board of Commissioners of the County of Stokes, State of North Carolina, met for an Emergency Called Meeting in the Commissioners' Chambers of the Ronald Wilson Reagan Memorial Building (Administration Building) located in Danbury, North Carolina on Friday, January 15, 2010 at 2:00 pm with the following members present:

Chairman Jimmy Walker
Vice Chairman Ernest Lankford
Commissioner J. Leon Inman
Commissioner Ron Carroll
Commissioner Stanley Smith

County Personnel in Attendance:
County Manager K. Bryan Steen
Clerk to the Board Darlene Bullins
Support Services Supervisor Danny Stovall
Public Health Director Josh Swift
Environmental Health Specialist Supervisor Leslie Easter
Environmental Health Specialist Fletcher Pipes

Others in Attendance:
Gary Robbins, Architect
Darian Creed, Engineer

Chairman Jimmy Walker called the meeting to order.

EMERGENCY CALLED MEETING

Chairman Walker noted the Emergency Called Meeting had been scheduled for the following:

- Review of Community College Site Plan for possible revision to avoid unnecessary delay of septic and well permit approvals and project financing that could jeopardize the scheduled opening for Early College in August 2010

Chairman Walker stated there is a very tight schedule for having everything ready for Early College by August 2010 and individuals involved in the project could meet with county officials today.

INVOCATION

Vice Chairman Lankford delivered the invocation.

GENERAL GOVERNMENT-GOVERNING BODY-PLEDGE OF ALLEGIANCE

Chairman Walker opened the meeting by inviting the citizens in attendance to join the Board with the Pledge of Allegiance.

APPROVAL OF AGENDA

Chairman Walker requested input from Board members regarding the format of today's Agenda.

Commissioner Carroll requested to ask a couple of very basic questions before the meeting proceeded any further.

Commissioner Carroll asked the following question:

- "How many people in this room including the Board are familiar with the site plan that this Board approved on December 28th and are licensed to practice as an architect or engineer in the State of North Carolina?"

Mr. Gary Robbins and Mr. Darian Creed responded affirmatively by raising their hands.

Chairman Walker asked if there was any opposition to Commissioner Carroll continuing with his questions to members in the audience.

There was no objection from the Board to allow Commissioner Carroll to continue.

Commissioner Carroll directed the following questions to Mr. Robbins and Mr. Creed:

- "Is there any reason from an architectural or engineering standpoint that this plan cannot work?" Mr. Robbins responded "No sir" and Mr. Creed responded, "Not to my knowledge".
- "Is there any reason why this plan or the use of this plan should cause any unnecessary delay of septic and well permit approvals and project financing?" Mr. Robbins and Mr. Creed both responded, "No sir".

Commissioner Carroll directed the following question to the health specialists in the audience:

- "Is there any reason why the use of this plan would cause unnecessary delay of septic and well permit approvals that another plan would not cause otherwise?"

Environmental Health Specialist Supervisor Leslie Easter responded, "There is no reason the plan received with the county's application can't be completed".

Commissioner Carroll stated the following:

- He considered this an improper meeting and an abuse of the Open Meetings Law
- The letter from our attorney justifying the emergency meeting is because there are necessary changes because of site plan problems
- The people with the expertise have just told me that there are no problems
- If there are no problems, there is no emergency
- If there is no emergency, there is no basis for a meeting

Commissioner Carroll moved to adjourn the meeting.

Chairman Walker noted there was no second to the motion.

Motion dies for lack of second.

Chairman Walker requested if there was any further discussion before agreeing on the format of today's agenda.

Commissioner Smith expressed concerns regarding the amount of grading that the site plan indicates that will need to be done.

Commissioner Smith requested clarification from Environmental Health Specialist Supervisor Easter if the primary drainage field indicated on site plan "B" is sufficient and suitable for the 248 early college students.

Supervisor Easter requested to review the site plan "B". Supervisor Easter noted that site plan "B" does not include the entire area laid out by the Environmental Health Department. The area flagged and approved by Environmental Health which is not on the site plan "B" presented by Commissioner Smith will encompass the initial and repair area for the Early College.

Commissioner Smith noted the need for this emergency meeting to review the discrepancy from the Board's approved site plan "B" and the actual area marked by Environmental Health Department. Commissioner Smith noted issues with the area marked on the site plan as the "primary septic area" in relation to the location of the driveway and reiterated the need for the emergency meeting. Commissioner Smith stated he felt that this Board needed to go to the location to review the proposed septic design plans.

Supervisor Easter noted that soil in the whole area was approved, but the design is to the right of the proposed driveway.

Chairman Walker requested the Board determine the format of today's meeting before any further discussion.

[Chairman Walker asked the commissioners if they wished to excuse Commissioner Carroll from the meeting. There was no response. (Commissioner Carroll requested on 01-25-2010 to add the following: There was no legal basis for Commissioner Carroll to be excused from the meeting.)]

County Manager Bryan Steen discussed the following memo, requested by Chairman Walker, regarding the need for the emergency meeting:

(Manager Steen included County Attorney Edward Powell's legal opinion)

Memo

To: Stokes County Commissioners

From: Bryan Steen, County Manager

Date: January 15, 2010

Ref: 01-15-2010 Emergency Meeting

Regarding the need to call for an Emergency Meeting, the Board is aware of the time pressures related to completing the Early College project and critical steps (financing, site preparation, POD construction, permit
January 15, 2010

approval for well and septic system, etc.) required for us to be able to receive Early College Students this August.

As you know, the Board met 01-11-2010 and Commissioners were informed that placement flags had been set in accordance with the Site Plan that was approved by the Board on 12-28-2009 and you were asked to view the site. Since the Jan. 11th meeting, several concerns have been voiced by Commissioners regarding the Site Plan and possible need to make significant changes before we go any further.

In calling for an Emergency Meeting, I want the Board to be aware of the following issues:

On January 13th, a routine conference call was held with the Local Gov. Comm. (LGC) to discuss our loan application for financing of the Nancy Reynolds and Community College projects. Both projects have been put into one loan package and interest rate.

During the call, LGC staff directed / required me to provide additional information related to the well and septic system permits. The information is critical for approval of our loan application and thus moving forward with the financed projects as established without delay and the consequences that would result from a delay of another 30 days for another review by the LGC. Keep in mind that the current loan amount was for the combined financial needs of both projects and not as separate smaller amounts. Additionally, it was the total loan amount for both projects that was placed out for bid and responded to with a loan term to include the interest rate. Separation of the projects will result in a project delay to go back to the market for a new loan amount and new loan bid / interest rate.

I've been working on development of the information necessary for the LGC required letter. Part of the required information is related to approval of the septic system permit and timeline for approval. I was in the process of getting an Improvement Permit from Environmental Health based on the use of work that has been completed for the area identified and examined as the result of our approved site plan. The Improvement Permit would support the fact that soil in the area identified would be acceptable for use and therefore infers that the formal septic system permit would be approved if the system design was acceptable to the approving agent. Additionally certain timeline inferences could be made as to when approval would likely occur. This is information required by the LGC. Should the Board direct us to change the approved site plan and location of the septic system, all work on the septic system design and soil examination will be thrown out and we will have to start the process anew, about a three week delay. The LGC is scheduled to make a decision on our loan application Feb. 2, 2010.

A change in the current Well location, as established in the Site Plan, we also require us to start the approval process again and result in a delay for the project and development of information required by the LGC for the Feb. 2, 2010 meeting.

These are the main factors that resulted in my discussion with the County Attorney to ask the Chairman to call an Emergency Meeting on this matter.

I will do my best to see that the projects are completed as desired and on time, but there are certain regulatory factors and minimal time requirements for activities that I can't control.

Time is of the essences and I do not believe we can wait until next week to have a Special Called Meeting to review the issues that have just come up, respond to potential changes in the Site Plan and complete provision of required information early enough for loan approval consideration during the Feb. 2nd LGC meeting and have a reasonable chance in completing the project in time to receive students attending Early College.

Attorney Powell's legal opinion:

January 14, 2010

Mr. Bryan Steen
Stokes County Manager
Ronald Reagan Administration Building
1014 Main Street
Danbury, North Carolina 27016

Re: Requirements for an Emergency Meeting of the Board of Commissioners

Dear Bryan:

The requirements for having an emergency meeting of the Board of Commissioners are contained in G. S. 143-318.12:

January 15, 2010

[4]

§ 143-318.12 Public notice of official meetings.

(a) If a public body has established, by ordinance, resolution, or otherwise, a schedule of regular meetings, it shall cause a current copy of that schedule, showing the time and place of regular meetings, to be kept on file as follows:

(1) For public bodies that are part of State government, with the Secretary of State;

(2) For the governing board and each other public body that is part of a county government, with the clerk to the board of county commissioners;

(3) For the governing board and each other public body that is part of a city government, with the city clerk;

(4) For each other public body, with its clerk or secretary, or, if the public body does not have a clerk or secretary, with the clerk to the board of county commissioners in the county in which the public body normally holds its meetings.

If a public body changes its schedule of regular meetings, it shall cause the revised schedule to be filed as provided in subdivisions (1) through (4) of this subsection at least seven calendar days before the day of the first meeting held pursuant to the revised schedule.

(b) If a public body holds an official meeting at any time or place other than a time or place shown on the schedule filed pursuant to subsection (a) of this section, it shall give public notice of the time and place of that meeting as provided in this subsection.

(1) If a public body recesses a regular, special, or emergency meeting held pursuant to public notice given in compliance with this subsection, and the time and place at which the meeting is to be continued is announced in open session, no further notice shall be required.

(2) For any other meeting, except an emergency meeting, the public body shall cause written notice of the meeting stating its purpose (i) to be posted on the principal bulletin board of the public body or, if the public body has no such bulletin board, at the door of its usual meeting room, and (ii) to be mailed or delivered to each newspaper, wire service, radio station, and television station, which has filed a written request for notice with the clerk or secretary of the public body or with some other person designated by the public body. The public body shall also cause notice to be mailed or delivered to any person, in addition to the representatives of the media listed above, who has filed a written request with the clerk, secretary, or other person designated by the public body. This notice shall be posted and mailed or delivered at least 48 hours before the time of the meeting. The public body may require each newspaper, wire service, radio station, and television station submitting a written request for notice to renew the request annually. The public body shall charge a fee to persons other than the media, who request notice, of ten dollars (\$10.00) per calendar year, and may require them to renew their requests quarterly.

(3) For an emergency meeting, the public body shall cause notice of the meeting to be given to each local newspaper, local wire service, local radio station, and local television station that has filed a written request, which includes the newspaper's, wire services, or station's telephone number, for emergency notice with the clerk or secretary of the public body or with some other person designated by the public body. This notice shall be given either by telephone or by the same method used to notify the members of the public body and shall be given immediately after notice has been given to those members. This notice shall be given at the expense of the party notified. An "emergency meeting" is one called because of generally unexpected circumstances that require immediate consideration by the public body. Only business connected with the emergency may be considered at a meeting to which notice is given pursuant to this paragraph.

(c) Repealed by Session Laws 1991, c. 694, s. 6. (1979, c. 655, s. 1; 1991, c. 694, ss. 5, 6.)

G. S. 143-318.12(b)(3) provides that notice of the emergency meeting must be given to those members of the media who have filed a written request for notice of meetings and must be given by telephone or the method used to notify the members of the public body and shall be given immediately after notice to the Board of Commissioners. An emergency meeting is defined as one called because of unexpected circumstances that require immediate consideration by the Board of Commissioners, and the only business that may be conducted is that as described in the notice of the meeting.

David Lawrence of the UNC School of Government has stated in his book on Open Meetings and Local Governments in North Carolina that two conditions must be met in order to call and conduct an emergency meeting, First, the meeting must concern "generally unexpected circumstances" and, Second, those circumstances must require "immediate consideration" by the public body.

As you described to me, this meeting will involve a meeting to discuss necessary changes in the site plan of the Early College and is necessary because the Board of Commissioners has just learned of the site plan problems which must be resolved and finalized before very limited time constraints concerning the loan application approval by the Local Government Commission and the requirement that the Early College be in operation at the new site for the summer 2010 opening of Stokes County schools.

It would certainly seem that these facts constitute unexpected circumstances which would require immediate consideration by the Board of Commissioners because of the time constraints involved.

Sincerely yours,

/s/ Edward L. Powell

Edward L. Powell
Stokes County Attorney

Commissioner Smith, Commissioner Inman, Vice Chairman Lankford, and Chairman Walker agreed to proceed with the meeting due to the critical timing outlined by Manager Steen.

Commissioner Carroll questioned the purpose and the outcome of the meeting.

Chairman Walker noted the reason for the meeting is to do whatever is needed to make sure the county has the best product that will serve the needs of the Early College students and for others who may use the facility in the future by going with the approved site plan or making necessary changes.

Vice Chairman Lankford noted he would like to discuss options A and B and would request the Board visit the site before making any final decisions.

Commissioner Inman agreed with Commissioner Carroll that this Board had agreed on a site plan, but feels the County needs to make sure the future facility for a community college is in the best location possible on the property and he had some concerns regarding the location of the septic area which have been addressed. Commissioner Inman stated that most of his concerns have been alleviated and his goal is not to detain the progress, but to make sure everything is located in the best possible place.

Supervisor Easter wanted to make sure that the Board realized that the Environmental Health Department's site plan did not look like the site plan shown to her by Commissioner Smith.

Chairman Walker entertained a motion regarding the format of the meeting.

Vice Chairman Lankford moved that the Board of Commissioners have discussion regarding the site plan, recess the meeting, and reconvene at the property. Commissioner Inman seconded and the motion carried (4-1) with Commissioner Carroll voting against the motion.

Chairman Walker opened the floor for discussion regarding the site plan.

Supervisor Easter noted that she had not seen the site plan shown to her by Commissioner Smith. Mr. Robbins noted that Ms. Easter's map is an actual working drawing map and that

Commissioner Smith's is a schematic drawing of the intentions of the project.

Mr. Robbins noted the septic field was based on the idea it would be in the general area located on site plan "B", before any test pits were dug.

Supervisor Easter stated the septic field has been evaluated and laid out as indicated on her site map.

The Board discussed the proposed septic field with Environmental Health Specialist Supervisor Easter.

Vice Chairman Lankford expressed concerns regarding areas on the site plan that need to be graded for possible future growth, buildings, etc. that may be affected by the location of the drainage area.

The Board discussed the areas questioned by Vice Chairman Lankford with Mr. Robbins.

Mr. Robbins noted that there was no intention to grade where the septic area is planned and pointed out areas that need grading and areas where the earth needs to be moved.

Vice Chairman Lankford noted the need to view the proposed sites discussed by Supervisor Easter and Mr. Robbins at the property.

The Board discussed the location of the primary structure for a future stand-alone facility. Mr. Robbins noted the location of the facility could be moved if needed.

With no further discussion, Chairman Walker recessed the meeting to reconvene at the property site.

Chairman Walker called the meeting back to order at the property site. All those in attendance at the beginning of the meeting were also at the location site.

Mr. Robbins pointed out the areas that would need to be graded and described the amount of grading that would be needed.

Supervisor Easter pointed out the septic field area which had been laid out and approved by Environmental Health.

The Board discussed the grading with Mr. Robbins and the septic field area with the Environmental Health staff.

County Manager Steen questioned Mr. Darian Creed regarding what kind of delay would occur if the septic field had to be changed. Mr. Creed responded approximately one month. Mr. Creed noted the application and plans for erosion control were almost ready for submission to NCDEHR.

Supervisor Easter wanted to make sure the Board knew that the septic field was designed for the 248 students for Early College with no food preparation.

Commissioner Smith questioned the capacity of the POD. Manager Steen noted the POD would accommodate approximately 174 students and that creative scheduling would be needed for students in their last two years. Director Ann Watts was aware of the capacity and saw no problems with scheduling students since most students in the last two years are not on campus every day.

Chairman Walker entertained a motion.

Commissioner Smith moved to accept the site plan prepared by Mr. Robbins and the septic field plan evaluated/approved by Environmental Health which was presented by Supervisor Easter at today's meeting and to proceed with the project. Commissioner Inman seconded the motion.

Chairman Walker called for any further discussion.

Commissioner Smith wanted to reiterate the need to be on the property site due to the differences in the site maps before proceeding with the project.

Commissioner Inman wanted to reiterate that it was not his intention to hold up the project or question Architect Robbins, but he just wanted to make sure that everything was in the best possible location.

Vice Chairman Lankford stated he also wanted to make sure everything was in the best possible location and feels the plan will work.

Commissioner Carroll noted he was fine all along.

Chairman Walker noted that before calling the emergency meeting, he had input from the Commissioners who were concerned about issues with the site map and had a comfort level to call the emergency meeting. Chairman Walker also noted that he shared the Board's goal to have a good project and to have a project done right that will serve the purpose.

Chairman Walker called the question.

The motion carried unanimously.

Chairman Walker expressed the Board's appreciation for those in attendance at today's meeting.

Adjournment

There being no further business to come before the Board, Chairman Walker entertained a motion to adjourn the meeting.

Vice Chairman Lankford moved to adjourn the meeting. Commissioner Smith seconded and the motion carried unanimously.

Darlene M. Bullins
Clerk to the Board

Jimmy Walker
Chairman