

The Alleghany County Board of Commissioners met in regular session on Monday, October 6, 2008, at 6:30pm in the Board Meeting Room of the County Administration Building, 348 South Main Street, Sparta, North Carolina.

Present: Chair Ken Richardson, Vice-Chair Warren Taylor, Commissioner Randy Miller, Commissioner Doug Murphy, County Attorney Donna Shumate, County Manager Don Adams, and Clerk to the Board Karen Evans. Commissioner Milly Richardson was present but arrived late.

Chair Ken Richardson called the meeting to order.

Commissioner Warren Taylor led the Pledge of Allegiance and opened the meeting with a prayer.

Commissioner Randy Miller made a motion to approve the agenda for this October 6, 2008, meeting. Commissioner Warren Taylor seconded the motion. Vote 4:0.

AGENDA
Monday, October 6, 2008
6:30 PM

- 6:30 Meeting Called To Order
Pledge of Allegiance and Prayer
Motion on Agenda for October 6, 2008, meeting
Motion on Minutes for September 15 and September 17, 2008, meetings
- 6:35 A. Public Comments—30 minutes
B. Public Hearing
RE: 911 Road Names
C. Public Hearing
RE: Property Rights Protection Ordinance Text Amendment
D. Council on Aging Annual Report
E. Town of Sparta
RE: Truline Truss Water/Sewer Lines
Water Service in the County
F. Mitch Franklin
RE: Edmonds/Glade Creek Water Lines
G. Paul Reeves/Bill Maxwell
RE: Windmills
H. Kathy Murphy
RE: Violations Procedures
Fee Schedules
I. County Business
1. Planning Board Appointment
2. Building Code Grant Act of 2007
3. Sesquicentennial Request
4. Wells at Landfill
5. JCPC Budget Amendment
6. EMS Capital Budget Amendment
7. Duncan Recreation Center Budget Amendment
8. Transfer Facility Budget Amendment
9. Transportation Budget Amendment
10. Channel 50/21 Support Budget Amendment
11. Proposal for Environmental Services
12. Other Business
13. Adjourn

Commissioner Doug Murphy made a motion to approve the minutes for the September 15 and September 17, 2008, meetings. Commissioner Randy Miller seconded the motion. Vote 4:0.

Chair Ken Richardson opened the public comments' portion of the meeting and asked for public comments.

Sue Richardson came before the Board to discuss property that she owned near Stone Mountain. She explained that the State wanted the land for a youth center. She further explained that she sold the Wilkes County land. She talked about she sold the timber off of the land. She further talked about the land and the road on the property. She stated that it has been 40 and half years since this happened. She talked about all of the things that she had done to try to take care of this since then. She said she can't get anything done. She talked about additional land that was deeded to other people. She explained that she has one deed that can't be recorded because it has been deeded to the State. She further explained circumstances about this issue including hiring Arnold Young to file suit.

Commissioner Milly Richardson arrived at 6:44pm.

Sue Richardson continued explaining her problem to the Board concerning land that she owned by providing a timeline of the events. She talked about events that occurred by attorneys including she was advised to contact Roy Cooper over this issue. She further talked about conversations for her to come here for help. She explained that they were not allowed to go on the property once the State owned the property. She further explained Judge Russo's discussions regarding this issue. She said she doesn't remember whether she cashed the check or not for a portion of the property. She stated that she has a lot of information concerning this property. She said the Board can look at any of the information. She explained this is regarding property on Oklahoma Road. She asked if the Board can help.

Chair Ken Richardson thanked Ms. Richardson and asked that she provide her contact information.

County Manager Don Adams explained that they will be back in contact.

Sue Richardson talked about her father was killed on that land. She talked about getting in touch with the Attorney General. She further talked about getting paid for one share of the land. She thanked the Board for their time.

Chair Ken Richardson asked for additional public comments. None were received.

Wendy Williams, E-911 Coordinator/Mapper, came before the Board to present three new road names, Old Indian Trail, Rocky Bottom Drive, Blue Jay Lane. She explained each road's location.

Chair Ken Richardson opened the public hearing regarding the 911 road names at 6:59pm.

Chair Ken Richardson asked for public comments. None were received.

Chair Ken Richardson closed the public hearing at 7:00pm and reconvened the regular meeting.

Commissioner Milly Richardson made a motion to approve the road names as presented by the E-911 Coordinator/Mapper. Commissioner Doug Murphy seconded the motion. Vote 5:0.

County Manager Don Adams explained that the Board has a memorandum of the proposed definition change on the Property Rights Protection Ordinance and the procedures that the Board needs to follow. He reviewed the proposed ordinance to amend the Alleghany County Property Rights Protection Ordinance including the Board's authority, purpose, definition removal, definition addition and effective date.

Chair Ken Richardson opened the public hearing regarding the text amendment at 7:02pm.

Chair Ken Richardson asked for public comments.

Linda Checkanow with the Town and Country Homeowners Association

explained that all 34 members voted against this action. She talked about the recent revaluation, and this action could devalue properties because of mobile home parks will be popping up everywhere. She continued to review reasons that this change does not need to be made. She stated that it was written the way it was for a reason, and it protects the property values in this county.

Chair Ken Richardson asked for further public comments. None were received. He closed the public hearing at 7:00pm and reconvened the regular meeting.

County Manager Don Adams reviewed the options before the Board; take no action or proceed with the change. He explained that "prior to adopting any zoning amendment, the Commissioners must adopt a statement describing whether its action is consistent with an adopted comprehensive plan and explaining why the Board considers the action taken to be reasonable and in the public interest. This statement is not subject to judicial review." He further explained that the Allegheny County Land Development Plan does identify "inadequate housing alternatives for low and moderate income families" and a community survey conducted shows 51% of the respondents agree that "there is a need for more housing choices throughout the County". He talked about this falls under those types of categories. He further talked about if the Board proceeds, there is a motion that has to be made before the change can be made, and if the Board doesn't proceed he isn't sure whether a motion is needed or not.

County Attorney Donna Shumate said the Board needs to make a motion to not do anything or a motion addressing the issue.

Commissioner Doug Murphy explained that the Board does have someone in place to handle planning issues.

Commissioner Milly Richardson made a motion that the proposed text changing the definition of a mobile home park in the Allegheny County Property Rights Protection Ordinance is consistent with the Allegheny County Development Plan and that it is in the best interest of the public by opening up more housing choices throughout the County. Commissioner Doug Murphy seconded the motion.

Commissioner Doug Murphy talked about this is an option to open up housing options.

The Board voted on the motion on the floor. Vote 5:0.

Commissioner Milly Richardson made a motion to approve the ordinance to amend the Allegheny County Property Rights Protection Ordinance. Commissioner Doug Murphy seconded the motion. Vote 5:0.

County Manager Don Adams explained that neither Bryan Edwards nor Kevin Dowell could attend this meeting. He read a letter from the Town regarding the Town has plans to install a new sewer line beginning at the intersection of Pine Swamp Road and US Highway 21 and running South along Highway 21 just past Truline Truss. He continued reading the letter from Kevin Dowell. He explained that the size of the pump station parcel will be approximately 0.117 acres, and the Town is requesting an exception to the definition of a subdivision as defined in Article 5 paragraph 17. He passed out information to the Board that the Town had received from the Council of Government including language of exemptions for utilities. He talked about the exemptions in the subdivision ordinance and reviewed option number one. He explained situations that Kathy Murphy is running into. He reiterated that the Town wants to buy 0.117 acres to locate a pump station. He explained that these are two areas that need to be cleaned up in the ordinance.

Commissioner Warren Taylor talked about he thinks we should go ahead and write the proposed changes plus Kathy Murphy having the power to look at a common sense clause.

Commissioner Doug Murphy talked about doing something so the Board doesn't have to look at this on a case-by-case basis.

County Manager Don Adams talked about a utility exemption.

County Attorney Donna Shumate talked about the problems that the County runs into. She further talked about she does think that some issues are common sense things.

Chair Ken Richardson asked does anyone have a problem with the utility exemption.

The Board stated that they don't have a problem with it.

County Manager Don Adams said he will schedule the public hearing.

Chair Ken Richardson asked about option number one. Commissioner Doug Murphy and Commissioner Warren Taylor agreed. Chair Ken Richardson stated that it is the consensus of the Board to proceed.

County Manager Don Adams asked the Planner and County Attorney to work on the language for the second issue.

County Manager Don Adams presented a letter from Bryan Edwards with the Town of Sparta concerning the water line that will run along Highway 21 from the Virginia line. He explained that the letter talks about their willingness to provide water, and would need general permission from the County to provide water to customers who wants water along Highway 21. He read the last paragraph of the letter stating that the Town Manager believes "the only action necessary is an expression from the Commissioners that requests the Town of Sparta to provide water service to those potential customers whose property lies along, and touches the US 21 corridor. Any property owner who desires public water, but the property does not touch the corridor is not included in this proposed agreement; such request would be considered on a case-by-case basis." He explained how this would work.

Commissioner Warren Taylor said this is an important negotiating tool for the water authority.

Chair Ken Richardson and County Manager Don Adams discussed this is from the Virginia line to Truline truss.

Commissioner Milly Richardson asked what a corridor is. She used several examples to define corridor.

County Manager Don Adams stated that he assumed when the property touches the road.

Commissioner Milly Richardson stated the need to get clarification.

Commissioner Randy Miller and County Manager Don Adams talked about people on the other side of the road wanting water if the Town wants to provide the water. The County Manager used an example if they hit rock, the Town has to make that decision unless the County wants to get in the water business or the County says no one gets water along 21.

Commissioner Doug Murphy and County Manager Don Adams discussed how this would work.

Commissioner Randy Miller stated he would have to think about tax dollars going for this.

County Manager Don Adams explained that the Town would be putting a meter on the water line, the property owner has to pay for any usage and to get the water to their house or business.

Commissioner Warren Taylor reiterated the importance of this for the water authority.

The Board of Commissioners and County Manager Don Adams talked about the word "corridor".

Commissioner Milly Richardson asked that the corridor be defined as the DOT right of way.

County Manager Don Adams and Commissioner Milly Richardson continued talking about the definition of corridor.

County Manager Don Adams said he has been talking to the Attorney, and the Board could use US 21 right of way for the definition of corridor.

Commissioner Warren Taylor made a motion to approve the Town's request and include the wording that the County Attorney described. Commissioner Randy Miller seconded the motion. Vote 5:0.

Mitch Franklin came before the Board to request that Mr. Adams look at obtaining a feasibility grant from the Rural Center regarding a water line from Edmonds to Glade Creek School. He provided the history of the project. He talked about pursuing the grant from the Rural Center to see if it is feasible to put in the water line.

Commissioner Doug Murphy and Mitch Franklin talked about water problems at Glade Creek Elementary School and expansion needs that have to be prolonged because of the water/sewer issues.

Commissioner Milly Richardson explained that she spoke with Blan Bottomley and David Higgins who are interested in this project.

Mitch Franklin identified people in the audience who are in support of this project.

Commissioner Doug Murphy and Mitch Franklin explained that Mitch Franklin and Don Adams have talked to Bill Ring with Grayson County and the City of Galax, who are ready for a project like this.

County Manager Don Adams talked about a planning grant from the Rural Center in the amount of \$40,000 that requires no matching money and must address a public/safety need. He further talked about the premise of the grant will have to center around Glade Creek Elementary School. He explained that the Rural Center has offered to send someone here to help with the grant. He talked about the different scenarios out there, and they would qualify for a strong grant.

Commissioner Doug Murphy and Mitch Franklin talked about bringing this up at the next Board of Education meeting.

County Manager Don Adams stated that he has spoken to Dr. Cox and Clarence Crouse about this.

Commissioner Doug Murphy made a motion to pursue the feasibility study for water. Commissioner Milly Richardson seconded the motion. Vote 5:0.

County Manager Don Adams explained that the grant isn't due until January 15 and the award date could be next fall.

Paul Reeves came before the Board to ask what the Board's stance on windmills is. He explained that he and Bill Maxwell own adjoining property. He further explained that he has been approached about putting windmills on this property. He described the windmills.

Kathy Murphy talked about windmills are exempt for residential use or farms, and if they are used as a business then they fall into a different category that requires a permit.

Commissioner Doug Murphy asked what the focus of the windmill is.

Paul Reeves explained that it will be experiential. He talked about places for the windmills. He further talked about it is expensive to put windmills up. He explained that they want to put up one on his property and one on Bill's property for three years to see if they would work. He asked the Board whether they can proceed.

Chair Ken Richardson stated that Kathy Murphy summarized what would be the requirements, and it would be a business.

Paul Reeves explained their opinion is it is not a business until it is proven. He reiterated about putting one windmill there as an experiment and if it works, then it would be a business.

Chair Ken Richardson stated that the Board hasn't discussed windmills and doesn't have an opinion as a Board.

Paul Reeves asked can the Board take a vote on the issue.

Chair Ken Richardson asked Paul Reeves to write a letter describing what he said tonight.

Paul Reeves agreed.

County Attorney Donna Shumate read the definition of an electricity generating facility in the High Impact/Polluting Industries ordinance. She asked if this is an appeal of something Kathy Murphy's has done. She explained how the Board has to proceed if it is an appeal of Mrs. Murphy's recommendation.

Paul Reeves explained that the company will not spend a lot of money until they have a final verdict from the County. He said to let the Commissioners vote it up or down.

Chair Ken Richardson asked that the request be submitted in writing to Kathy Murphy and let her make her recommendations, then come back to the Commissioners.

Paul Reeves explained that if Kathy Murphy approves it, he wants it to come before the Commissioners.

Commissioner Doug Murphy and County Manager Don Adams talked about there are two ordinances that must be met and the Property Rights Protection Ordinance goes before the Planning Board.

Commissioner Milly Richardson and County Attorney Donna Shumate talked about electricity generating facilities.

Commissioner Warren Taylor talked about the differences between a single windmill and a windmill farm. He further talked about at some point; the Property Rights Protection Ordinance has to kick in because the use of the property will be changing. He talked about leasing a parcel of land and having good results.

Paul Reeves talked about these are two entirely different things.

Commissioner Warren Taylor talked about if it goes to a business then it has to go before the Planning Board because of the Property Rights Protection Ordinance.

Paul Reeves agreed and stated that it will go before the State first.

County Attorney Donna Shumate read the definition of an electricity generating facility. She stated that Kathy Murphy can make the determination about the windmill falling under that exemption.

Paul Reeves stated that he thinks he can do it and the Commissioners need to

confirm what she has said before the company will invest the money.

Commissioner Warren Taylor and Paul Reeves talked about windmill problems in Boone.

Paul Reeves explained that this windmill is one mile away from anyone's house. He said he is trying to get the Board to agree with Kathy Murphy's opinion then the Board sign off on it.

Chair Ken Richardson reiterated to submit it in writing to Kathy Murphy and then the Board can proceed.

Paul Reeves and Chair Ken Richardson talked about timing on this matter.

Kathy Murphy, Planner, reviewed information in the Board's packets; non-compliance violation procedure, non-compliance investigation report, summary of penalties for each of the ordinances.

Commissioner Warren Taylor stated that he thinks this is good and should proceed.

County Manager Don Adams asked the Board to look at step seven, "If non-compliant take further action as recommended by Commissioners", and to look at the summary of penalties. He asked when and how penalties get enforced. He further stated he had asked the County Attorney to research this.

County Attorney Donna Shumate stated that she talked to the Ashe County Attorney, and they have a deputy that enforces their ordinances. She stated that Kathy Murphy could take out a warrant through the magistrate's office for violations. She talked about once people are served 95% of the time, they comply.

Commissioner Doug Murphy and County Attorney Donna Shumate discussed the process of the warrants.

Commissioner Warren Taylor asked if the Board wants to hear about the violations before it goes farther.

County Attorney Donna Shumate explained that by step seven, Kathy Murphy has had numerous discussions with the people. She further explained that the Board has an option of civil penalties.

Commissioner Warren Taylor asked again if the Board wants to hear about the violations before it goes farther.

Chair Ken Richardson asked if the Planner has several non-compliances currently.

Kathy Murphy answered several.

Chair Ken Richardson asked her to bring the Board a couple to the next meeting to see how the Commissioners want to proceed.

The Board agreed.

Kathy Murphy discussed fees for the permitting process. She reviewed the fees that she received from other counties/towns. She talked about most of them charge something for permits. She explained what the Planning Board is recommending. She reviewed the fees that are currently charged. She explained the amount of office materials used and that they are trying to recoup the costs.

Chair Ken Richardson reiterated that the Planner is recommending four fees at \$25 each.

Commissioner Warren Taylor asked if the Board needs to do this mid stream or

wait until budget time.

Kathy Murphy explained that she missed the fee schedule meeting. She further explained that she ran out of materials last year, and this year the supply budget was cut.

Commissioner Warren Taylor talked about Kathy Murphy will have to come back for a budget amendment anyway to get the money into her budget.

Chair Ken Richardson talked about looking at this at another time.

Commissioner Warren Taylor agreed.

Chair Ken Richardson stated that he supports what Kathy Murphy is here for. He further stated to come back for a budget amendment if needed and then take fees up during fee discussion time.

Kathy Murphy handled out letters to the Board that she mailed to individuals in the floodplain.

Chair Ken Richardson thanked Kathy Murphy for the spreadsheet and research.

County Manager Don Adams presented an application for the Planning Board. He explained that this person will be an at-large member and moving David Isner to be the Gap Civil representative.

Chair Ken Richardson asked the Board if they have any recommends.

The Board answered no.

Commissioner Warren Taylor asked does this individual need to be interviewed.

Chair Ken Richardson asked the County Manager to call her to meet with him.

County Manager Don Adams presented the Community Building Code Administration Grant Act of 2007. He reminded the Board that Randy Blankenship requested a letter of support for this Act.

Commissioner Milly Richardson made a motion to write a letter of support. Commissioner Doug Murphy seconded the motion. Vote 5:0.

County Manager Don Adams presented a request of \$1,500 for the 150th celebration that was discussed at the Joint Meeting.

Commissioner Warren Taylor made a motion to approve the request.

Chair Ken Richardson asked Sandy Carter to speak because she has been moving this project along.

Sandy Carter stated that the money will be used for promoting Alleghany County. She reviewed the ideas that will be performed for the celebration. She reminded the Board that the purpose is to celebrate our heritage and promote the county.

Commissioner Doug Murphy seconded the motion on the floor. Vote 5:0.

Chair Ken Richardson asked about an idea that he had about using one location as a focal point for the celebration.

Sandy Carter explained that she will be able to answer that after they have spoken to local businesses about putting items out for sale.

Commissioner Doug Murphy and Sandy Carter discussed magazine publications that will be advertising the celebration.

County Manager Don Adams presented a letter about test wells at the landfills. He reminded everyone about the history of the positive test results that the County received. He explained that the State sent a letter showing no compounds were found in the new well. He further explained that now the County is required to do methane testing. He talked about a plan to test the wells again around December/January and having that firm bring up a piece of equipment to train our people to use it because the Town of Sparta has one and has offered to let the County use it for the methane testing.

Commissioner Warren Taylor and County Manager Don Adams discussed the State allowing non-certified people to test for methane.

County Manager Don Adams presented budget amendment General Fund #12 in the amount of \$848 for the JCPC program.

Commissioner Milly Richardson made a motion to approve budget amendment General Fund #12 in the amount of \$848. Commissioner Randy Miller seconded the motion. Vote 5:0.

County Manager Don Adams presented budget amendment General Fund #13 in the amount of \$59,690 for the approved EMS capital.

Commissioner Milly Richardson made a motion to approve budget amendment General Fund #13 in the amount of \$59,690. Commissioner Doug Murphy seconded the motion. Vote 5:0.

County Manager Don Adams presented budget amendment General Fund #14 in the amount of \$1,379 for the additional money needed to keep the swimming pool open later.

Commissioner Warren Taylor made a motion to approve budget amendment General Fund #14 in the amount of \$1,379. Commissioner Milly Richardson seconded the motion. Vote 5:0.

County Manager Don Adams presented budget amendment Transfer Facility Fund #2 in the amount of \$1,149 for insurance proceeds for lightning damage to the scales. He talked about he is pricing out the new scale system that will hopefully reduce lightning damage. He further talked about how frequently lightning damage occurs at the Transfer Facility.

Commissioner Doug Murphy made a motion to approve budget amendment Transfer Facility Fund #2 in the amount of \$1,149. Commissioner Milly Richardson seconded the motion. Vote 5:0.

County Manager Don Adams presented budget amendment General Fund #15 in the amount of \$14,945 for the additional funds needed to make the transportation billing/records clerk full time. He explained that \$2,242 is coming from the County and the remainder is coming from the State.

Commissioner Warren Taylor made a motion to approve budget amendment General Fund #15 in the amount of \$14,945. Commissioner Milly Richardson seconded the motion. Vote 5:0.

County Manager Don Adams talked about items like these where the Board has already approved the action could be placed on a consent agenda so the Board wouldn't have to approve each individual one.

Chair Ken Richardson stated to leave that for consideration by the new Board in December.

County Manager Don Adams presented budget amendment General Fund #16 in the amount of \$10,000 for Channel 50/21 support previously approved by the Board.

Commissioner Doug Murphy made a motion to approve budget amendment General Fund #16 in the amount of \$10,000. Commissioner Warren Taylor seconded the motion. Vote 5:0.

County Manager Don Adams presented two proposals. He stated that one is across from Tommy Andrews on the bypass, approximately seven acres. He explained that it has been discussed to be used as open property. He further explained that it is in a floodplain, can't build any structures on it and the need to determine how much of the property is wet. He stated that this open property would be used to replace the soccer program using Martin Marieta's land. He explained that the next property is at the Fairgrounds for the training facility. He reviewed what it would be used for, and he has been talking with grant sources, they require a wetland assessment and what it would take to mitigate the property. He explained the process of getting the assessments completed for each of the properties. He discussed the two proposals from ECS. He talked about the costs for each proposal; \$2,450 and the other costs on page 4 will only come into play if the County is trying to obtain federal monies, and he asking for \$1,000 for the Fairgrounds with surveying costs of around \$2,000. He explained that the final flood data does not prohibit anything on these properties. He talked about the County can use PARTF grants for the bypass property.

Commissioner Warren Taylor and County Manager Don Adams talked about the wetland delineation will be good for five years.

County Manager Don Adams stated that he is looking for approval for these proposals.

Commissioner Doug Murphy reiterated that this is necessary to apply for any funding or grants because they are in a floodplain.

County Manager Don Adams agreed, if anything is to be done with these properties.

Commissioner Warren Taylor made a motion to approve the proposals. Commissioner Doug Murphy seconded the motion. Vote 5:0.

County Manager Don Adams stated that there is another planning/zoning issue that is coming and requires an answer from the Planning office which will take an attorney's opinion on vested rights. He further stated that County Attorney Donna Shumate has a conflict of interest with this issue. He explained that he has talked with Ed Woltz who has agreed to \$105 an hour to work on this issue.

Commissioner Doug Murphy made a motion to pursue Ed Woltz for this issue. Commissioner Randy Miller seconded the motion. Vote 5:0.

Being no further business, Commissioner Milly Richardson made a motion to adjourn at 8:41pm. Commissioner Randy Miller seconded the motion. Vote 5:0.

Respectfully submitted,

Karen Evans
Clerk to the Board

Attest:

Ken Richardson
Chairman

ALLEGHANY COUNTY

NORTH CAROLINA

Ordinance To Amend The Alleghany County Property Rights Protection Ordinance

Section 1. Authority

The Alleghany County Board of Commissioners enacts this Ordinance pursuant to its planning and regulation of development powers, as set forth in and authorized by Article 18 of Chapter 153A of the North Carolina General Statutes.

Section 2. Purpose

The purpose of this Ordinance is to make a text amendment to the Alleghany County Property Rights Protection Ordinance that changes the definition of a “Manufactured Home Park” as described in Article 3, Section 3.2—Specific Definitions of the Ordinance.

Section 3. Definition Removal

This Ordinance removes the following definition from Article 3, Section 3.2—Specific Definitions of the Ordinance. *Manufactured Home Park* - A tract of un subdivided land occupied or proposed to be occupied by two (2) or more manufactured homes. It includes any service building, structure, enclosure, or other facility used as a part of the park.

Section 4. Definition Addition

This Ordinance adds the following definition to Article 3, Section 3.2—Specific Definitions of the Ordinance. *Manufactured Home Park* - A tract of un subdivided land occupied or proposed to be occupied by more than two (2) manufactured homes. It includes any service building, structure, enclosure, or other facility used as a part of the park.

Section 5. Effective Date

The effective date of this Ordinance shall be the date of its adoption by the Board of Commissioners.

Adopted this the 6th day of October, 2008.