

Meeting of the Hoke County Board of Commissioners on Monday, August 3, 2009 at 7:00 p.m. in the Commissioners Room of the Pratt Building.

MEMBERS PRESENT:

James A. Leach, Chairman  
Tony Hunt, Vice Chairman  
Robert Wright  
Jean Powell  
Ellen McNeill

OTHERS PRESENT:

Tim Johnson, County Manager  
William Fields, County Attorney  
Linda Revels, Clerk to the Board

Chairman Leach called the meeting to order and welcomed everyone. Scout Master Kenny Young and Troop #409 led the Pledge of Allegiance and Adrian Lowery with the LRCOG gave the invocation.

Planning - Public Hearing – Rezoning

a. Application for Rezoning RZ-09-06 submitted by Reservoir Training Site, LLC, to rezone the property located at 572 Boundary Line Rd, more specifically identified by the Hoke County Tax Records as PIN 594070001003 (10 acres), from RA-20 Residential-Agricultural District to Highway Commercial District. The Planning Board recommended approval. John Terzian was present for the request. He stated that this will be a military training facility next to Fort Bragg. There will be no firearms. This will be a mock Iraqi village operated Monday through Friday, operated during the day. Larry Chavis, Planning, stated that Parks-McMillan is a private road, with this property being between Plank and Boundary Road. The surrounding property is zoned RA-20. Robert Wright asked how was the property accessed? Mr. Terzian stated with a legal easement off of Parks McMillan Road. Jean Powell stated that this property is not on a highway or in a commercial area. She asked if they had a contract with Fort Bragg? Mr. Terzian stated that they are currently doing training with Fort Bragg. She also stated that according to a letter from RLUAC, they oppose the rezoning. She asked if there was any other zoning district appropriate other than Highway Commercial, in that she is not opposed to the request? Tony Hunt asked which of the uses will it be permitted under? Larry Chavis stated that the Planning Board considered this as a school. William Fields asked if any staff would be there? Mr. Terzian stated that only when training is going on. Chairman Leach asked if they specifically wanted Highway Commercial or the appropriate zone? Mr. Terzian stated that they want to be able to use the land and go forward with the training facility. William Fields stated that there may be a way to put this under another zone since Highway Commercial is wide open. They can look at the ordinance regarding this use. Renate Dahlin stated that if the property is zoned Highway Commercial and the

(minutes continued from the August 3, 2009 meeting) 2834

business moves out, any use in this district can be permitted. She would like to see this rezoning applicable only to this request. Art Tuzenar stated that he agreed with the way the Board was going. They want to have a safe area, especially with BRAC coming in. Charles Patterson stated that he agreed with not rezoning the property to Highway Commercial. There were no other speakers.

**Motion: Tony Hunt made a motion to close the public hearing, seconded by Robert Wright.**

**Action: The motion was unanimously carried.**

The Board then held discussion. Jean Powell stated that she would like to see a way to allow the training school and not rezone the property to Highway Commercial. She asked if a conditional use could be done under the current zoning? William Fields stated that the ordinance could be amended to add a conditional use for the RA-20 zone. The Board would need to table this for staff review. Chairman Leach asked Mr. Terzian if he had a time schedule to get this done? He stated no. William Fields stated that it could come back the first meeting in September.

**Motion: Jean Powell made a motion to table this until the September 8<sup>th</sup> meeting, seconded by Tony Hunt.**

**Action: The motion was unanimously carried.**

Subdivisions:

Eagles Ridge – The Planning Board recommended approval. Larry Chavis stated approval has been done, however; it has expired due to no final plat being recorded within the time frame of the subdivision ordinance. It is therefore being resubmitted for final approval.

**Motion: Robert Wright made a motion to approve the resubmission of the final plat for Eagles Ridge subdivision, seconded by Tony Hunt.**

**Action: The motion was unanimously carried.**

The Estates at Steeplechase – The Planning Board recommended approval. Larry Chavis stated that the Board originally had a concern regarding traffic safety on Highway 211 – Aberdeen Road. There are now only two driveways that will access Highway 211, which should be safer. They are therefore recommending preliminary approval. Jean Powell stated that this request was tabled earlier. Tim Johnson stated that staff and the

developers met and there are no current safety issues. William Fields asked if the 50' right-of-way was a private road. David Matthews, Engineer, stated yes. Mr. Fields asked if the road would be handled by the homeowners association? Mr. Matthews stated yes. This is two separate subdivisions in that they were submitted as two separate subdivisions. Chairman Leach stated that with this private road, he wanted to make sure that the homeowners knew that after all the lots are sold, that the county will not pave the road. David Matthews stated after a certain percentage, it goes over 100% to the homeowners association and the developer will come out. Ron Huff, Developer, stated that the developers will take the responsibility of the roads until such time. Yearly dues and restrictive covenants will go with this subdivision. The homeowners will be given copies of the documents, also having to sign them. Mr. Matthews stated that they will either use concrete or asphalt to pave the road. Tim Johnson stated that he thought that the road would be built to DOT standards. Mr. Matthews stated that this will still be a private road and not the same width that is on state roads. The width will be 16' with a 50' right-of-way. William Fields stated that specifics about the road need to be made in the motion. Larry Chavis stated that the developer will be held to DOT standards because of the number of lots. David Matthews stated that DOT will not take over this road. Tim Johnson stated that discussion was held on the 50' easement with it being paved and still continue to be a private road. Tony Hunt asked who was going to check and make sure that the requirements are enforced? Tim Johnson stated that it will be done in house.

**Motion: Robert Wright made a motion to approve the request with the stipulation that the road be built to DOT standards except having a 16' road width, seconded by Jean Powell.**

**Action: The motion was unanimously carried.**

Consent Agenda:

- a. Minutes from the July 20, 2009 meeting
- b. Resolution Opposing HB1134
- c. Reimbursement Resolution
- d. Budget Amendments
- e. Rockfish Road Force Main Bid Recommendation - #3
- f. HATS – (3) Agreements
- g. LRCOG – Bid Recommendations

Jean Powell stated that she would like to pull item c with a question.

**Motion: Robert Wright made a motion to approve item numbers a, b, d, e, f, and g of the consent agenda, seconded by Tony Hunt, unanimously carried.**

(minutes continued from the August 3, 2009 meeting) 2836

**A Resolution Opposing HB1134 Open Government Act**

**WHEREAS**, House Bill 1134 Open Government Act would create an Open Government Unit of the Department of Justice to receive and attempt to informally resolve disputes between the public and more than 430 State and local government agencies; and

**WHEREAS**, the Open Government Act would create another bureaucracy that would become involved anytime there is disagreement over what is a public record or an open meeting and require the payment of reasonable attorneys' fees if a local government loses an open records lawsuit; and

**WHEREAS**, the Open Government Act would allow for attorneys' fees to be assessed against a public agency or the court may order that all or any portion of any attorneys' fees so assessed be paid personally by any public employee or public official; and

**WHEREAS**, current law protects local governments from having to pay attorney's fees if they act with "substantial justification" in denying access to records while HB1134 would remove this protection and substitute reliance on a court order or judgment, an appellate opinion or a written opinion from the Attorney General so that a public body would NOT be able to rely on an opinion of its own attorney or other legal experts when considering requests for records.

**NOW, THEREFORE, BE IT RESOLVED** that the Hoke County Board of Commissioners vigorously opposes HB 1134 Open Government Act since the Hoke County Board of Commissioners believes that the current system works well, in that, citizens' address their concerns directly with those elected officials that they hold accountable through local elections.

Adopted this 3<sup>rd</sup> day of August 2009.

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James A. Leach, Chairman

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Linda Revels, Clerk to the Board

Jean Powell stated that regarding the resolution in item c, they are requesting that the County pay both our portion and the JCPC portion for a total of \$93,473.00. The State has not approved their budget. Will the county have to pay the JCPC portion if the State does not pick it up? Chairman Leach stated that the money is secure. Tom Landry with JCPC stated that they held back 12% of non allocated money understanding that the budget would be short. They were not sure if the cut would be 12 or 15 percent. Jean Powell stated that this can come back to the Board if needed. \*\*\* **Reimbursement resolution at the end of the minutes.**

(minutes continued from the August 3, 2009 meeting) 2837

**Motion: Robert Wright made a motion to approve item #c of the consent agenda, seconded by Tony Hunt.**

**Action: The motion was unanimously carried.**

Sheriff Peterkin was present to discuss the Governor's Highway Safety Program Grant. He stated that the grant they received 4 years ago will end in October for the traffic team of 4 officers. Prior to the grant Hoke County was #3 in the State for accidents, now we are about #25. We will be getting another traffic officer through the grant. The resolution shows that federal funding dollars total \$78,238.00 with a match of local county dollars totaling \$13,806.00. Sgt. Nachia Revels leads the team and she is doing a good job. Garvin Ferguson stated that the new position is not in the budget. Jean Powell asked if the funding covers the salary and a vehicle for the officer? Sheriff Peterkin stated yes as well as equipment. Sgt. Revels stated that the personnel funding does include benefits. Jean Powell stated that with the grant, on the 4<sup>th</sup> year the county is responsible for taking over that position. Chairman Leach stated that by the 3<sup>rd</sup> year the County will need a new person. Chairman Leach asked if they were keeping track of the numbers done by the team? Sgt. Revels stated that they send the information to the State and they are audited. Sheriff Peterkin stated that the 5 man unit will be housed at the sub-station in the eastern part of the county.

**Motion: Robert Wright made a motion to approve the resolution for the N. C. Governor's Highway Safety Program Grant, seconded by Ellen McNeill.**

**Action: The motion was unanimously carried.**

North Carolina Governor's Highway Safety Program  
**LOCAL GOVERNMENTAL RESOLUTION**  
**Form GHSP-02-A**

(To be completed, attached to and become part of Form GHSP-02, Traffic Safety Project Contract.)

WHEREAS, the Hoke County Sheriff's Department (herein called the "Agency") has completed an application contract for traffic safety funding; and that Hoke County Board of Commissioners herein called the "Governing Body" has thoroughly considered the problem identified and has reviewed the project as described in the contract;  
THEREFORE, NOW BE IT RESOLVED BY THE Hoke County Board of Commissioners  
IN OPEN

THIS 3rd DAY OF August, 2009 ,AS FOLLOWS:

1. That the project referenced above is in the best interest of the Governing Body and the general public; and
2. That the Hoke County Sheriff's Department is authorized to file, on behalf of the Governing Body, an application contract in the form prescribed by the Governor's Highway Safety Program for federal funding in the amount of \$78,238.00 to be made to the Governing Body to assist in defraying the cost of the project described in the contract application; and
3. That the Governing Body has formally appropriated the cash contribution of \$13,806.00 as required by the project contract; and
4. That the Project Director designated in the application contract shall furnish or make arrangement for other appropriate persons to furnish such information, data, documents and reports as required by the contract, if approved, or as may be required by the Governor's Highway Safety Program; and
5. That certified copies of this resolution be included as part of the contract referenced above; and
6. That this resolution shall take effect immediately upon its adoption.

DONE AND ORDERED in open meeting by \_\_\_\_\_  
Chairman/Mayor

ATTESTED BY: \_\_\_\_\_

SEAL

Appointments:

- a. Library Board – Reappointment of Ireni Autry

**Motion: Chairman Leach made a motion to approve the reappointment of Ireni Autry to the Library Board, seconded by Jean Powell.**

**Action: The motion was unanimously carried.**

Discussion of Proposed Subdivision Ordinance Changes

William Fields stated that at the last meeting Jim Kizer raised the question about inserting the language of the sketch plan in the grandfathering provision of the ordinance. A list of subdivisions prepared by staff was given to the Board that would be affected if the change is made. Determination of a grandfathered subdivision map is if approval has

been submitted and approved by this Board. Mr. Kizer suggested that the change be made that a sketch plan be the determining factor for whether a subdivision is grandfathered. Tonight the discussion is more on the dates of the subdivision. The total number of lots is 1,344. Tony Hunt asked if the approvals have expired, did they have to resubmit. William Fields stated that the question is do you want to go with the sketch or preliminary for grandfathering. Chairman Leach stated that he would like to give the developers a change to reapply for the subdivisions that have expired. Jean Powell stated that it important for the Board to protect the citizens with the new ordinance. They are not trying to create a burden for the developers. David Matthews stated that most of the developments have already been built. Other sections would be stricter. The ones approved should be allowed to stay. William Fields stated that currently there is not a provision for a sketch plan, only a procedure. Chairman Leach asked if both sides left the staff meeting with the same understanding? William Fields stated that staff did not have a recommendation. They are going to leave that to the Commissioners. They want the Board to understand the issue with the sketch plan. Jonathan Charleston stated that the developers understand that the Board wants to adopt an ordinance that fosters orderly development. The developers in the process of developing subdivisions also want to be protected. They would like for the Board to consider sketches that have been submitted to be grandfathered. Construction of sidewalks could have a great impact on the developers. Chairman Leach opened the meeting up to public input. Charles Patterson stated that the Board is getting caught up in language and not doing what the citizens are requesting. Renate Dahlin stated that the Board definitely needs to look at sidewalks. She is tired of listening to developers. She does not agree with giving money for green space. Sidewalks and green space should be looked at. John Harry stated that Hoke County is mostly rural. Sidewalks provide safety for citizens. Chairman Leach asked the Board if they wanted to schedule a public hearing or set a workshop first. Tony Hunt stated that if they approve the sketch plan, will this list be approved also? William Fields stated yes. He also stated that one decision is whether to grandfather subdivisions at sketch level under the new ordinance and the other is expired subdivisions can come in and reapply under the current ordinance to get them reestablished. The list is part of the proposed subdivision ordinance. Jean Powell some of these subdivisions have not even broken ground. Robert Wright asked if a time limit for completion date can be put on the project? William Fields stated yes and that if the subdivisions are to be grandfathered, a definite date needs to be given. The question is who gets grandfathered and whether it is with sketch or preliminary. A time period has been set in the proposed ordinance. Jonathan Charleston stated that most of the particulars in the ordinance have been agreed upon. The only issue is which subdivisions will not have to come under the new ordinance.

After discussion the Board scheduled a workshop on the proposed changes for Wednesday, August 19<sup>th</sup> at 8:00 a.m. with the public hearing being scheduled for September 21<sup>st</sup>. William Fields stated that the changes will have to be advertised.

Manager’s Report

The maintenance shop at the new park is about 95% complete. The turf has been aerated and looks good. The evidence storage buildings at the Sheriff’s Department are anticipated to complete in the next 2 to 3 weeks. The Wal-Mart sewer project is on schedule. The permitting has been received for the Ethanol Plant. Bids should be going out in about 2 weeks. Regarding Brownsfields, they are looking at the schools to see if they have any underground storage tanks. A sewer committee meeting is scheduled for tomorrow. He is also going to Pennsylvania to look at solids handled. Everything is going well.

Public Input

1. John Harry – He has a concern for Annexation of Hoke County by Cumberland County. He also has a concern regarding Firsthealth being in Hoke County versus Cape Fear being in Cumberland County.
2. Rhonda Locklear – She stated that farming plays a big role in Hoke County. On March 13, 2010 they will have a farm history day at Edgar Eden’s farm. They will have quilting, food preservations and viewing livestock. Everyone is invited.

HOKE COUNTY REIMBURSEMENT RESOLUTION  
Alternative Behavioral Learning Environments (A.B.L.E.)

**BE IT RESOLVED by the Board of Commissioners of Hoke County, North Carolina, as follows:**

**Section 1.** Hoke County intends that funds that have been advanced, or may be advanced, from the general fund, to the A.B.L.E program, will be reimbursed from JCPC funds once the state remits the JCPC funds to Hoke County for the 2010 fiscal year.

**Section 2.** The County intends that the adoption of this resolution will be a declaration of this County’s official intent to reimburse expenditures from JCPC proceeds.

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(minutes continued from the August 3, 2009 meeting) 2841

I certify that the foregoing resolution was duly adopted at a meeting of the Board of Commissioners of Hoke County, North Carolina, duly called and held on August 3, 2009, and that a quorum was present and acting throughout such meeting. Such resolution remains in full effect as of today.

Dated this 3rd day of August , 2009.

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[SEAL] Clerk, Board of Commissioners  
Hoke County, North Carolina

There being no further business to come before the Hoke County Board of Commissioners, Tony Hunt made a motion to adjourn, seconded by Jean Powell, unanimously carried. The meeting adjourned at 8:35 p.m.

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James A. Leach, Chairman

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Linda Revels, Clerk to the Board