

PERSON COUNTY BOARD OF COMMISSIONERS
MEMBERS PRESENT

AUGUST 2, 2021
OTHERS PRESENT

Gordon Powell
Kyle W. Puryear
C. Derrick Sims
Charlie Palmer
Patricia Gentry

Heidi York, County Manager
Brenda B. Reaves, Clerk to the Board
S. Ellis Hankins, County Attorney

The Board of Commissioners for the County of Person, North Carolina, met in regular session on Monday, August 2, 2021 at 7:00pm in the commissioners' boardroom 215 in the Person County Office Building.

Chairman Powell called the meeting to order.

A **motion** was made by Commissioner Gentry and **carried 5-0** to relocate the meeting to the County Office Building Auditorium. Chairman Powell announced a brief recess at 7:01pm to allow transition of the meeting.

Chairman Powell reconvened the meeting at 7:05pm and offered an invocation. Vice Chairman Puryear led the group in the Pledge of Allegiance.

DISCUSSION/ADJUSTMENT/APPROVAL OF AGENDA:

A **motion** was made by Vice Chairman Puryear and **carried 5-0** to approve the agenda.

PUBLIC HEARING:

Public Hearing July 12, 2021 continued to August 2, 2021

PETITION SUP-02-21 - A REQUEST BY THE APPLICANT, BEREASOLAR, LLC, ON BEHALF OF THE PROPERTY OWNERS, ELIZABETH CHRISTIAN AND CATHERINE PHELPS, JOHN AND LINDA MANGUM, MALCOLM MANGUM, JR. AND MARY SUSAN WILLIAMS, MATTHEW MOORE, JEFFRY HENDRIKS AND EM & RM LLC, (ELVIN MANGUM) ON TAX MAP AND PARCEL NUMBERS A110-7, A110-2, A110-31, A110-29, A110-6, A111-5 AND 0961-06-5906 (GRANVILLE COUNTY PIN), TOTALING 920 ACRES LOCATED ON BEREASOLAR, BETHANY CHURCH AND ISHAM CHAMBERS ROADS, FOR A SPECIAL USE PERMIT TO ESTABLISH A LEVEL 3 (10 ACRES OR GREATER) SOLAR ENERGY SYSTEM:

Commissioner Gentry said the only thing that hasn't happened was that she was not able to view the property as she had requested. She said she was told in no uncertain terms that she could not go view the property without being escorted by the attorneys for the solar company.

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Commissioner Gentry said they were not able to arrange a date that worked so that didn't happen.

A **motion** was made by Commissioner Gentry and **carried 5-0** to continue this process until the next meeting because she has not had the ability to complete her due diligence.

County Attorney, Ellis Hankins reminded commissioners and interested citizens that application with respect to the proposed solar farm was not the traditional, usual agenda item that you are used to. He said it is not a legislative action; it is a quasi-judicial action, more like a court proceeding than the typical agenda item. What that means, Mr. Hankins said, as his law partner explained at the last meeting, the Board is required to decide on that application based on, only, competent material, relevant evidence introduced during the public hearing. Mr. Hankins said what that meant was there can't be ex parte communications. He noted citizens are used to picking up the phone and talking to commissioners, and you can't do that with respect to one of these quasi-judicial hearings – just wanted to remind everyone of that.

Chairman Powell said item #2 was no longer relevant. Chairman Powell asked if the Board should close the public hearing at this time or was that necessary. Chairman Powell said he would need a motion to continue if you want to do that.

A **motion** was made by Commissioner Gentry and **carried 5-0** to make a continuance of that meeting.

PUBLIC HEARING:

REQUEST TO ADD MCKENZIE CHANDLER DR., A PRIVATE ROADWAY, TO THE DATABASE OF ROADWAY NAMES USED FOR E-911 DISPATCHING:

A **motion** was made by Vice Chairman Puryear and **carried 5-0** to open the duly advertised public hearing for a request to add McKenzie Chandler Dr., a private roadway, to the database of roadway names used for E-911 dispatching.

GIS Manager, Sallie Vaughn requested Board consideration to add McKenzie Chandler Dr., a private roadway, to the database of roadway names used for E-911 dispatching. Mr. Vaughn said two private residences (1793 and 1301 Stoney Mountain Rd.) are currently located on a private driveway off Stoney Mountain Rd. A potential third private residence is being added to this driveway. In accordance with Article IV, Section 402 H of the "Ordinance Regulating Addresses and Road Naming in Person County," the driveway must be named. The addition of this road will require occupants of the existing residences to change their addresses to reflect the new roadway name.

North Carolina General Statute 153A-239.1(A) requires a public hearing be held on the matter and public notice be provided at least 10 days prior in the newspaper. The required public notice was published in the July 22, 2021 edition of the Roxboro Courier-Times. A sign advertising the public hearing was placed at the proposed roadway location on the same date.

Ms. Vaughn stated the adjacent property owners were contacted in person and via certified mail. The majority of individuals responded and agreed upon a single road name, McKenzie Chandler Dr., which is compliant with all naming regulations in the Ordinance.

There were no individuals appearing before the Board to speak in favor of or in opposition to the request to add McKenzie Chandler Dr., a private roadway, to the database of roadway names used for E-911 dispatching.

A **motion** was made by Commissioner Gentry and **carried 5-0** to close the public hearing for a request to add McKenzie Chandler Dr., a private roadway, to the database of roadway names used for E-911 dispatching.

CONSIDERATION TO GRANT OR DENY REQUEST TO ADD MCKENZIE CHANDLER DR., A PRIVATE ROADWAY, TO THE DATABASE OF ROADWAY NAMES USED FOR E-911 DISPATCHING:

A **motion** was made by Vice Chairman Puryear and **carried 5-0** to approve the request to add McKenzie Chandler Dr., a private roadway, to the database of roadway names used for E-911 dispatching.

INFORMAL COMMENTS:

The following individuals appeared before the Board to make informal comments:

Mr. Ray Jeffers of 1138 Concord-Ceffo Rd., Roxboro and Chair of the Department of Social Services (DSS) Board said he was there to speak on Commissioner Gentry's agenda item noting he did not know what she will present, but if consolidation was what she was presenting, he wanted the Board of Commissioners to know that the DSS Board, at its meeting last week, voted 4-0 not in favor of consolidation. He added Commissioner Gentry recused herself from the vote. Mr. Jeffers stated the entire DSS Board was present in the audience, as well as the DSS Director, Carlton Paylor, should the Board have any questions that they may be of any assistance.

Mr. John Seepe of 277 Barefoot Landing Ln, Semora stated he asked three months ago for an update on the shell building, a shell building that has been discussed over 10 years in Person County noting to date he has not received a current status and wanted to know why. Mr. Seepe said the shell building was not in construction because construction costs came in so far over what was guessed at noting he asked what that number was but was not given the answer. Mr. Seepe apologized for his tone when he approached this topic at the last Board meeting. He said the citizens deserve answers. Mr. Seepe reiterated that 10-minutes for a public comment period was insufficient and not in alignment with the other counties of NC.

Ms. Anderson Clayton of 546 Flat River Church Rd., Roxboro, and Chair of the Person County Democratic Party extended an invitation to the commissioners to the next Democratic Party meeting on August 16, 2021 at 100 N. Main St. Ms. Clayton also extended an invitation to the Word of Life Food Pantry located on Hill Street on Tuesdays and Fridays from 7:00am – 11:00am serving people that need food.

Ms. Cynthia Lynch of 395 Union Grove Church Rd, Hurdle Mills asked a question related to the quasi-judicial solar application; was there a time limit in which the Board of Commissioners had to make a determination noting when she served on the Board of Adjustment in other places, they had to make a decision within a certain amount of time and suggested the Board look at it carefully and not to allow the time to run out and the application to be automatically approved. She noted the Board would be considering looking at the solar ordinance again noting some folks had expertise in areas, i.e. the need to control battery storage noting the applicant has said the solar panels themselves are relatively benign and as long as they stay intact, that is probably true. She said if there was damage, that was another issue. Ms. Lynch said she did not think battery storage was addressed in the application that is before the Board, but she said her husband received a letter from Fox Rothschild, from Tom Terrell, referring to battery storage for another application and was referencing that. Ms. Lynch urged the Board, among the many areas to look at, battery storage as it was crucial because it has a lot of environmental impacts containing materials that require careful handling with fire a big problem.

DISCUSSION/ADJUSTMENT/APPROVAL OF CONSENT AGENDA:

A **motion** was made by Vice Chairman Puryear and **carried 5-0** to approve the Consent Agenda with the following item:

A. Budget Amendment #2

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UNFINISHED BUSINESS:

CONSIDERATION OF THE ORGANIZATION AND GOVERNANCE STRUCTURE FOR COUNTY HUMAN SERVICES:

The NC Legislature approved in 2012 a law expanding the options for consolidating human services agencies in county government (S.L.2012-126). Person County currently operates with two separate agencies: Public Health Department and the Department of Social Services (DSS). Each department is governed by an appointed Board: the Board of Health and the DSS Board. The 2012 law provides County Commissioners some additional options for the organizational structure and the governance of human services.

Commissioner Gentry, the commissioner representative on the DSS Board, requested consideration to conduct a public hearing on consolidating the organization and governance structure for the County's human services agencies.

Commissioner Gentry said audits of 2017 and 2019 showed deficiencies and missing documentation, not eligible or over payment of eligible benefits, and denial notices to the NC FAST reporting system. She added some of the auditor reports stated errors regarding budget calculations in income verifications, ineffective case review process; cases did not have correct budget calculations for Medicare eligibility among other things. Commissioner Gentry stated the recommendations to correct was for the county to train and monitor employees on the eligibility determination process as well as NC FAST processes and to consider internal control deficiencies.

Commissioner Gentry stated that in 2020, the DSS was placed in a corrective action on the intake side which resulted in hiring an outside consultant, the REAL Academy, at a cost of \$68,000 for oversight in creating communication strategies to ensure employees know what is going on across the agency; creating an agency plan for cross training; implementing annual training on professional communication; creating a plan for professional development and creating an inter-agency team to assist leadership in measuring workload. She added the final report from the REAL Academy in April 2021 presented to the DSS Board noted nine of the ten corrective action elements had been met.

Commissioner Gentry noted an employee survey reflected employees highly satisfied with their jobs but satisfaction plummeted in some instances 40 to 50% related to trust in leadership, communications, employee value and employee input. Commissioner Gentry surmised a big disconnect between the employees loving their jobs and working well with each other and their communication with the management team.

Commissioner Gentry said leadership, the Director and another high-level manager, was on leave and absent in 2020 for a period up to six months to a year. In another example, another top management position hired in 2020 was on leave and teleworked. Commissioner Gentry said from August 2019 to August 2020 there was essentially no management team in a highly demanding and emotional environment with a lack of internal control.

Commissioner Gentry said the DSS Board awarded the DSS Director, Carlton Paylor, with outstanding performance from 2017 to 2020 and when she brought up her concerns, the other board members said they went through similar processes when they were new on the board. She said COVID did not create employee dissatisfaction and errors in records keeping, however, it has exposed it. Commissioner Gentry stated the DSS provides services to one in four households in Person County, essentially one-quarter of the approximately 16,000 households. She opined that DSS is a Band-Aid noting there are several drug and economic dysfunctions, which are huge contributing factors, and they are not addressed. She further noted this is an indication of the county's overall county health. Commissioner Gentry said public health is affected, yet none of this information was listed on the 2020 Person County state of health profile on the county website.

Commissioner Gentry said to provide for more local oversight and streamlining of services, she recommended the Board to consider a consolidated human services agency. She named four options: 1) status quo with no change, 2) abolish the Health and DSS board and the Board of Commissioners would assume those governing powers, 3) create a new consolidated human services agency with the commissioners appointing a new human services board, and 4) consolidating with governance from the commissioners rather than an appointed board.

Commissioner Sims asked Commissioner Gentry if the DSS Board has heard her report to which she replied that they did not want to hear it. Former commissioner and current DSS Board chairman, Ray Jeffers was asked to address Commissioner Gentry's report; he said it was hard to rebut something that he just heard and said Commissioner Gentry was incorrect in answering Commissioner Sims question that the DSS Board did not want to hear her presentation because prior to the DSS Board voting not to be in favor of consolidation, the DSS Board asked her if she wanted to share what she would be presenting at the Board of Commissioners' meeting and she responded she would be presenting her case on Monday (at the Board of Commissioners' meeting). Mr. Jeffers stated that was when he asked her if she would like to recuse herself. Mr. Jeffers stated the Board of Commissioners in 2012 looked at consolidation and found no benefit to the county at that time. Mr. Jeffers noted a consolidation would require the county to hire a supervisor to be over both the DSS Director and the Health Director to which Commissioner Gentry countered that it was possible that the County Manager would be over the new consolidated department and another director would not be needed.

Mr. Jeffers stated his disagreement with the option to have the County Manager run a consolidated department noting his opinion that it was not a favored option for Person County. He also noted his disagreement that the DSS Director was absent for six months as presented by Commissioner Gentry. When asked, Mr. Jeffers said he was not aware of any disconnect between the employees and management; he added the commissioners do not handle personnel issues for human service agencies. Mr. Jeffers stated the DSS and health department employees are covered by county and state personnel policy. He added that employees have several ways to present a complaint without fear of repercussions. Mr. Jeffers said consolidation would take away the protection of the state personnel policy from these employees.

A **motion** was made by Commissioner Gentry and **carried 3-2** to schedule a Public Hearing on September 7, 2021, providing a 30-day notice to begin the process for consolidation of the Health and Social Services Departments with a new, expanded human services board with many more health care professionals that could add a lot more guidance to the DSS. Voting in favor of the motion was Commissioners Gentry, Palmer and Chairman Powell. Voting in opposition to the motion was Vice Chairman Puryear and Commissioner Sims.

NEW BUSINESS:

DEVELOPMENT MORATORIUM PROCESS:

County Attorney, Ellis Hankins stated the Board of Commissioners was authorized to enact a development moratorium on development activity pursuant to the Solar Energy System Ordinance (SESO). Mr. Hankins said the Board's authority and the process for implementing a development moratorium under the provisions of NC General Statutes 160D-107 includes a public notice to conduct a public hearing prior to enacting a moratorium on development activity. Mr. Hankins added the Board should also be sure to conduct a robust discussion of the required findings during the legislative hearing. The Board's findings should be supported by facts rather than speculation.

Mr. Hankins noted that if the County proposes to enact a moratorium that is 61 days in duration or longer, i.e., six months, the Board of Commissioners must hold a legislative hearing and must cause a notice of the hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The first notice must be published at least 10 days and not more than 25 days before the hearing date.

Related to the required findings, Mr. Hankins said an ordinance enacting a development moratorium must include four specific statements. N.C. General Statute § 160D-107(d) requires that:

“Any development regulation establishing a development moratorium must include, at the time of adoption, each of the following:

- (1) A statement of the problems or conditions necessitating the moratorium and what courses of action, alternative to a moratorium, were considered by the local government and why those alternative courses of action were not deemed adequate.
- (2) A statement of the development approvals subject to the moratorium and how a moratorium on those approvals will address the problems or conditions leading to imposition of the moratorium.
- (3) A date for termination of the moratorium and a statement setting forth why that duration is reasonably necessary to address the problems or conditions leading to imposition of the moratorium.
- (4) A statement of the actions, and the schedule for those actions, proposed to be taken by the local government during the duration of the moratorium to address the problems or conditions leading to imposition of the moratorium.”

Mr. Hankins stated the purpose of these required statements was to ensure that the Board of Commissioners have provided adequate public justification for the moratorium. It is critical that these statements are thoroughly discussed during the legislative hearing and that the moratorium ordinance clearly summarizes the basis for the Board of Commissioners’ decision.

In addition, Mr. Hankins said it was important to note that any moratorium enacted by the Board of Commissioners on development pursuant to the SESO would not apply to special use permit applications for solar farms that have already been submitted and accepted as complete. The practical result of these laws is that development regulations amended during a moratorium do not automatically apply to complete development permit applications, which were submitted prior to the effective date of the moratorium ordinance where the property owner has acquired what the law regards as vested rights.

Mr. Hankins recalled the Board of Commissioners imposed a moratorium in March 2020 citing a need for an updated and clear regulatory system to ensure that business and residential activities are properly coordinated, compliant with all federal laws including Federal Aviation Administration regulations and compliant with all state laws, including environmental regulations was assured. Mr. Hankins said the previous moratorium also stated the county’s regulations may not have adequately addressed federal and state regulations and a moratorium would allow the county to research all applicable considerations necessary for the proper enactment of regulations on solar energy systems in a manner that is fair and equitable to all interests and a piecemeal revision of the

regulation would result in inconsistent, and sometimes unlawful, development decisions that would be avoided by a comprehensive review. The new and current solar ordinance, which was approved in October 2020, separates solar energy systems into categories based on size. Level one are systems that are panels mounted on a roof, covering a permanent parking lot or other hardscape area, a building-integrated system and ground-mounted panels under a half acre and are allowed in all the county's zoning districts and approved at staff level. Mr. Hankins noted that there are state laws that restrict jurisdictions' ability to prohibit or restrict rooftop placements. Level two systems are ground-mounted between a half acre and 10 acres. They are permitted in all of the county's zoning districts which a special use permit issued by the county commissioners. Level three systems are ground-mounted panels more than 10 acres and are not permitted in the county's residential and neighborhood shopping districts but are permitted with a special use permit in highway commercial, general industrial and rural conservation districts.

A **motion** was made by Commissioner Palmer and **carried 5-0** to direct staff to publish a Public Hearing Notice to consider a moratorium at the Board's August 16, 2021 meeting.

Planning Director, Lori Oakley asked for specific guidance on preparing the proposed moratorium ordinance. Mr. Hankins stated he and county staff would work to draft a moratorium ordinance including a statement of the problems or conditions necessitating the moratorium, what courses of action other than a moratorium were considered by the local government, and why those alternatives were not deemed adequate; a statement of the development approvals subject to the moratorium and how a moratorium on those approvals will address the problems that led to its imposition; a date for termination of the moratorium and a statement setting forth why that duration is reasonably necessary to address the problems that led to its imposition; and a clear statement of the actions, and the schedule for those actions, proposed to be taken by the local government during the moratorium to address the problems that led to its imposition.

CHAIRMAN'S REPORT:

Chairman Powell reported a recent groundbreaking ceremony on July 22, 2021 at the Raleigh Regional Airport at Person County to kick off the construction of the new hangar. Chairman Powell stated the furniture on the stage was placed there to commemorate Polywood's recent announcement to expand its operations in Person County bringing 300 new jobs, which upon completion will make them the largest corporate citizen.

MANAGER'S REPORT:

County Manager, Heidi York had no report.

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COMMISSIONER REPORT/COMMENTS:

Commissioner Palmer said he was pleased with the Polywood announcement; he noted his concerns related to the bald head eagles sustainability in Person County and across the country. Commissioners Palmer said he was supportive of the solar moratorium.

Commissioner Sims thanked all the individuals that participated in public comments; he encouraged people to be aware of the virus and to do what was best, wear a mask as there are people dying.

Vice Chairman Puryear had no report.

Commissioner Gentry had no report.

ADJOURNMENT:

A **motion** was made by Vice Chairman Puryear and **carried 5-0** to adjourn the meeting at 8:04pm.

Brenda B. Reaves
Clerk to the Board

Gordon Powell
Chairman

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