

March 1, 2010

The Randolph County Board of Commissioners met in regular session at 4:00 p.m. in the Commissioners Meeting Room, County Office Building, 725 McDowell Road, Asheboro, NC. Commissioners Holmes, Frye, Haywood, Kemp and Lanier were present. Rev. Garry Arnett, First Christian Church, Ramseur, gave the invocation, and everyone recited the Pledge of Allegiance.

Special Presentation

Sheriff Reid presented the National Sheriff’s Association Medal of Valor to Deputy Chad Oates. Deputy Oates survived a shoot-out with two robbery suspects, in which one of the robbers was killed.

Recognition of Retiree

Chairman Holmes recognized Ann Vrem for 27 years of service to the Randolph County Emergency Services Department and presented her with an engraved clock.

Public Comment Period

Pursuant to N.C.G.S. § 153A-52.1, Chairman Holmes opened the floor for public comment. No one spoke.

Commissioner Frye mentioned that he attended a ribbon cutting earlier in the day at Randleman Lake. He said that the first boat was launched on the lake, as well.

Approval of Consent Agenda

On motion of Haywood, seconded by Lanier, the Board voted unanimously to approve the Consent Agenda, as follows:

- *approve minutes of regular meeting of February 1, 2010;*
- *appoint Wanda Hilton to the Randleman Planning & Zoning Board;*
- *approve 2011 Holiday Schedule for County, Solid Waste Facility & Library, as follows:*

Holiday	County*	Solid Waste Facility**	Library
<i>New Year’s Day</i>	<i>Observance 12/31(Fri.)</i>	<i>1/1 (Sat.) closed</i>	<i>1/1(Sat.)</i>
<i>M. L. King Jr.’s B-day</i>	<i>1/17 (Mon.)</i>	<i>1/17 (Mon.) open</i>	<i>1/17(Mon.)</i>
<i>Easter/ Good Friday</i>	<i>4/22 (Fri.)</i>	<i>4/22 (Fri.) open 4/23 (Sat.) closed</i>	<i>4/22 & 4/23 (Fri. & Sat.)</i>
<i>Memorial Day</i>	<i>5/30 (Mon.)</i>	<i>5/30 (Mon.) closed</i>	<i>5/30(Mon.)</i>
<i>Independence Day</i>	<i>7/4 (Mon.)</i>	<i>7/4 (Mon.) closed</i>	<i>7/4 (Mon.)</i>
<i>Labor Day</i>	<i>9/5 (Mon.)</i>	<i>9/5 (Mon.) closed</i>	<i>9/5 (Mon.)</i>
<i>Fall Festival (Asheboro Library Only)</i>			<i>10/1 (Sat.)</i>
<i>Veterans’ Day</i>	<i>11/11 (Fri.)</i>	<i>11/11 (Fri.) open</i>	<i>11/11 (Fri.)</i>
<i>Seagrove Pottery Festival (Seagrove Library Only)</i>			<i>11/19 (Sat.)</i>
<i>Thanksgiving</i>	<i>11/24 & 25 (Thur. & Fri.)</i>	<i>11/24 (Thur.) closed, 11/25 (Fri.) open, 11/26 (Sat.) open</i>	<i>11/24, 25 & 26 (Thur., Fri. & Sat.)</i>
<i>Christmas</i>	<i>12/26 & 27 (Mon. & Tue.)</i>	<i>12/26 (Mon.) closed, 12/27 (Tue.) open</i>	<i>12/24, 26 & 27 (Sat., Mon. & Tue.)</i>

- approve Budget Amendment #30 for Public Health—HD/BCCCP/Title X, as follows:

2009-2010 BUDGET ORDINANCE		
General Fund—Amendment #30		
Revenues	Increase	Decrease
<i>Restricted Intergovernmental</i>	\$ 9,154	
Appropriations	Increase	Decrease
<i>Public Health</i>	\$ 9,154	

- approve revised sewer easement to City of Trinity across County-owned property adjacent to Trinity High School (originally approved August 2010, but easement must be realigned due to modifications to the sewer line).

Request to Offer Tetanus/Pertussis at Cost

MiMi Cooper, Public Health Director, stated that pertussis (whooping cough) is a serious communicable disease in young children. In the past several years, public health officials have noted an increase in the cases of pertussis among young and old. The Centers for Disease Control reports that the protection afforded by the vaccines of childhood have waned in many adults causing them to be susceptible to pertussis. Even more concerning is that very young children who have not reached the age where they can receive pertussis vaccination are at great risk of contracting pertussis from an adult who may not even realize they have the disease. Young children who contract pertussis are at risk of serious health problems, including death. This is why for years public health departments all across the country have been boosting adults’ tetanus vaccines with a product called TDAP. This tetanus vaccine also includes protection for pertussis. However, in these serious economic times, the State Department of Health and Human Services had to drastically cut its funding for immunizations, and one of the vaccines cut was TDAP for adults. The Randolph County Health Department feels very strongly that adults need protection from this disease for their own health but also to protect young children from serious illness and death. Therefore, the Randolph County Board of Health approved the recommendation to add TDAP vaccine to the services the Health Dept. offers to adults, at a cost of \$30.00. Ms. Cooper requested that the Commissioners approve the fee of \$30.00 for a TDAP vaccine for anyone who is not eligible for the State Vaccination Program.

On motion of Frye, seconded by Haywood, the Board voted unanimously to approve adding the Tetanus/Pertussis vaccine to the vaccines offered at the Health Department and to approve a fee of \$30.00 for a TDAP vaccine for anyone who is not eligible for the State Vaccination Program.

Approval of Criminal Justice Partnership Programs (CJPP) Application; Contract with Montgomery County; Resolution of Support for Continuation Funding

Pam Smith, Day Reporting Center Director, asked the Board to approve the grant application for continuation of implementation funding for the Randolph Adult Resource Center and the contract between the Randolph and Montgomery CJP Advisory Boards for the Montgomery program.

On motion of Kemp, seconded by Frye, the Board voted unanimously to approve the FY 10-11 CJPP Application for the Randolph County Adult Resource Center Program and to approve the FY 10-11 Agreement between the Randolph and Montgomery CJPP Advisory Boards, to authorize the

County Manager to sign the documents, and to approve the following resolution of support for continuation of CJPP funding:

WHEREAS, since 1995, the State of North Carolina and County Governments have been partners in providing effective and necessary community supervision of adult criminal offenders; and

WHEREAS, the CJPP funding programs of Randolph County are meeting the goals for the programs as stated in the General Statutes; and

WHEREAS, the Randolph County CJPP diligently carries out its charge of establishing and delivering competent, effective and necessary program assistance to augment community supervision of adult criminal offenders; and

WHEREAS, the loss of CJPP services in Randolph County will result in the loss in rehabilitative services for offenders and additional costs of incarceration due to higher failure rates for offenders; and

WHEREAS, Criminal Justice Partnership Program (CJPP) funding has been removed from the continuation budget and is now subject to continuation review, and

WHEREAS, the non-recurring status of CJPP funding and subsequent continuation review will delay the annual appropriation and may result in the loss of qualified professional personnel or county government's discontinuation participation due to uncertain funding; and

NOW, THEREFORE, BE IT RESOLVED that the Randolph County Board of Commissioners strongly endorses full reinstatement of funding for Criminal Justice Partnership Program to the continuation budget.

Adoption of Resolution Declaring Intent to Close Road

Aimee Scotton, Associate County Attorney, said that she had received a request from attorney Margaret Megerian who, on behalf of her client, Ms. Dorothy Smith, has requested that the Randolph County Board of Commissioners act to permanently close Mountain Street. Ms. Smith is the owner of lots 39 through 40 and 139 through 152 of the Rushwood Park Subdivision. There are two recorded surveys of these parcels. The earlier of the two shows a road running between two parcels owned by Ms. Smith (Mountain Street); on the other survey, this same section of road is labeled "Road Not Open." Ms. Smith is requesting that the County act to officially and permanently close this road. Ms. Scotton said that the procedure for closing a public road or easement is governed by NCGS§153A-241. The first step requires that the Board of Commissioners adopt a resolution declaring its intent to close the road and calling for a public hearing on the question. This notice must be published once a week for three successive weeks before the hearing, and a copy of the resolution must be sent by registered certified mail to each owner of property adjoining the road, as shown by the county tax records, who did not join in the request to have the road closed. Furthermore, a notice of the closing and the public hearing must be posted in at least two places along the road. At the public hearing, interested persons are allowed to voice their views on whether the closing will be detrimental to the public interest or to individual property rights. After the public hearing, if the Board of Commissioners is satisfied that closing this road will not be detrimental to public interest and will not deprive any individual of access to his property, the Board may adopt an order closing the road. A certified copy of the order shall then be filed with the Register of Deeds office.

On motion of Kemp, seconded by Haywood, the Board voted unanimously to set a public hearing for the closing of Mountain Street in Asheboro for 4:30 p.m. on April 5, 2010, and adopted the following resolution declaring its intent to close the road:

WHEREAS, the Randolph County Board of Commissioners has received a request from Dorothy Smith, of 876 Danwood Street, Asheboro, NC to permanently close the following section of Mountain Street:

From where Mountain Street borders parcel 154 of Rushwood Park Subdivision (approximately 390 feet from its intersection with "Center Street") to intersection with a street referred to as "Center Street" in a survey entitled "Rushwood Park" and recorded in Platbook 1, Page 233 in the Randolph County Registry; said section is also depicted as "Road Not Open" running from parcel 154 of Rushwood Park Subdivision approximately 315.14 feet from its intersection with Danwood Street/SR 1434 as depicted in a survey entitled "Final Plat Prepared for Dorothy Swaney Smith" recorded in Plat Book 123, Page 90 in the Randolph County Registry.

WHEREAS, North Carolina General Statute § 153A-241 requires that the Board of Commissioners hold a public hearing prior to the closing of any road to consider the effects of said closing on the public interest or on individual property rights;

BE IT RESOLVED that the Randolph County Board of Commissioners hereby declares its intent to permanently close Mountain Street as specifically outlined above.

BE IT FURTHER RESOLVED that the Randolph County Board of Commissioners has set a public hearing for 4:30 p.m. on April 5, 2010 to consider said closing and to allow for the public to be heard on this matter.

Public Hearing for Historic Landmark Designation – Pisgah Covered Bridge; Adoption of Ordinance Designating Bridge

Hal Johnson, Chairman of the Historic Landmark Preservation Commission (HLPC) stated that the HLPC conducted a public hearing on January 27, 2010, and unanimously approved a resolution recommending landmark designation for the Pisgah Covered Bridge. Final authority for local historic landmark designation rests with elected officials of the local government within whose planning jurisdiction the landmark is located. If approved, the Pisgah Covered Bridge will become the 7th local historic landmark designated in Randolph County. Mr. Johnson said that the Pisgah Covered Bridge is one of the two remaining covered bridges in North Carolina. In 1972, it was listed on the National Register of Historic Places. The bridge was able to remain on the National Register after the 2003 flood destruction because it was rebuilt to its exact original dimensions and at its original location, reusing more than 90% of the original bridge pieces.

At 4:50 p.m., the Board adjourned to a duly advertised public hearing.

Randle Brim, County Planning Dept. staff member, stated that the Pisgah Covered Bridge is located on the West Fork Branch of the Little River, within the Uwharrie National Forest, approximately 14 miles southwest of Asheboro, N.C. The 54-foot long bridge was built in 1911 by J.J. Welch. (John Jackson Welch, 1863-1935). Unlike many of the county's covered bridges having been built by county funds, the Pisgah Bridge appears to have been built by private sources, namely J.J. Welch, and possibly assisted by his family members, including his brother J.D. Welch. By 1911, the Welch family, especially brothers J.J. and J.D., had amassed vast acreages of land and needed a suitable river crossing to move his crops, produce, and wood products to Seagrove and other markets, hence the construction of the bridge in 1911.

In 1931, the county road system was assumed by the State of North Carolina. Thus began the ownership and maintenance of the Pisgah Covered Bridge by the state and NCDOT that continued until it was relinquished to the North Carolina Zoological Park in 2004. After 1957, the covered bridge fell into disuse when a new state bridge was built approximately 60 feet upstream to replace the old one and the road was realigned. Gov. Kerr Scott instituted a program of paving roads and building bridges in rural communities. However, NCDOT retained ownership and maintenance responsibility of the covered bridge. By 1994, dilapidation of the covered bridge had become more apparent, and NCDOT appropriated \$18,000 for its repairs.

The original 1911 bridge construction was reported to have cost a modest \$40, which supports the theory that J.J. Welch built the bridge without any county assistance. The original bridge was built with a combination of freshly cut white oak and recycled virgin forest pine boards. Based on the holes, the mortise slots, and the grains in these floor runners of virgin forest pine, Mr. Moffitt believes the 1911 builder re-used the boards from much older structures, such as a grist mill, dating back well into the early 1800s. When these boards were originally cut, according to Mr. Moffitt, the grain count indicates the tree would have been 120 to 150 years old.

Mr. Brim called on William Moffitt to share the story of the first man to drive a team of mules and a wagon through the bridge upon its completion.

William Moffitt said that in 2004, while he was working on the bridge reconstruction, he met 102-year-old Claude Morris, who was visiting the site. Mr. Morris told him that he witnessed the first wagon and mule team, driven by Mathew Cagle, to cross the newly finished 1911 bridge. Mr. Moffitt also said that he learned that one of the local saw millers who sawed the first oak timbers and boards for the original bridge was W.D. Hurley. As it turned out, Mr. Hurley's grandson, Eugene Hurley, re-sawed his grandfather's bridge timbers being reused in the bridge.

Dr. David Jones, Executive Director of the N.C. Zoo, spoke about reconstruction of the bridge and the economic impact the bridge is having on Randolph County. He said the bridge continues to draw thousands of visitors into the county each year. In 1998, Dr. Jones spearheaded the fundraising efforts for a project to refurbish the bridge and build a connecting nature park, including picnic tables and nearby walking trails. The project involved a partnership with NCDOT, the Piedmont Land Conservancy, the Land Trust for Central North Carolina, the adjacent property owners Gerald C. Parker, Sr., Norah Joan Benfield Parker, James Brye Baker and Lena Strider Baker, along with residents of the Pisgah community. More than \$73,000 in donations were raised during the 1998 campaign. On September 16, 1999, a dedication ceremony marked the project's completion.

In 2001, about two years before the devastating storm that would crush the Pisgah Bridge, Nora Lucas Miller, as a Randolph Community College "Historic American Buildings Survey" class assignment, recorded detailed measurements and made sketches of the architectural details of the bridge, including taking photographs and extensive notes. Using the college's specialized computer software, she produced scaled models of all components of the covered bridge. After the bridge's destruction in 2003, she provided all her materials to William Moffitt, the lead contractor who supervised the bridge's reconstruction.

On August 10, 2003, storm waters surged 14 feet above the normal level, and the bridge floated off its stone foundation piers. A wreckage of large assembled components and smaller pieces of the bridge lay scattered more than 100 feet downstream. Many people rushed to the location and carried away memorabilia pieces, most of which were later returned for rebuilding. Dr. David Jones, again spearheaded the fundraising efforts for the bridge's reconstruction. The N.C. Zoological Society was the designated agency through which contributions were donated. William Moffitt, a lifelong resident of the Pisgah community, was selected as the lead contractor for the rebuilding process. Reconstruction commenced on November 11, 2003, and the bridge was completed on March 31, 2004. The total expenditures for the entire Pisgah Covered Bridge restoration project of 2003-2004, which included the cleanup of adjacent grounds, picnic area, parking area, and trails, totaled \$88,000. \$90,000 was donated as of July 23, 2004, and then NCDOT contributed an additional \$5,000 a short time later. The balance of the project funds after expenses went into a Pisgah Covered Bridge maintenance fund.

Hearing no further comments, the public hearing was closed.

On motion of Lanier, seconded by Haywood, the Board voted unanimously to adopt an Ordinance establishing the 1911 Pisgah Covered Bridge as a local historical landmark, as follows:

Ordinance Designating the Exterior of the 1911 Pisgah Covered Bridge as a Local Historic Landmark in Randolph County, North Carolina

WHEREAS, Chapter 160A, Article 19, Part 3C of the North Carolina General Statutes provides for the designation of local historic landmarks; and

WHEREAS, on June 2, 2008, the Randolph County Board of Commissioners adopted an Ordinance which established the Randolph County Historic Landmark Preservation Commission to perform those duties of designating and regulating historic local landmarks pursuant to North Carolina General Statutes; and

WHEREAS, the County of Randolph has taken into full consideration all statements and information contained in the Landmark Designation Application for the 1911 Pisgah Covered Bridge as submitted by the Randolph County Historic Landmark Preservation Commission; and

WHEREAS, the North Carolina Department of Cultural Resources, State Historic Preservation Office, has reviewed the Landmark Application, noting that the 1911 Pisgah Covered Bridge possesses the requisite significance and integrity for local landmark designation; and

WHEREAS, the Randolph County Historic Landmark Preservation Commission and the County Board of Commissioners have held the required public hearings and published legal notices with mailings to adjoining property owners; and

WHEREAS, the Randolph County Historic Landmark Preservation Commission has adopted a unanimous resolution requesting the County of Randolph to designate the exterior of the 1911 Pisgah Covered Bridge as a local historic landmark; and

WHEREAS, the Randolph County Board of Commissioners find that the 1911 Pisgah Covered Bridge meets the following specific criteria outlined in the adopting Ordinance establishing the Commission: (1) critical part of the County's heritage by having value as an example of the cultural, economic, historic, and social heritage of Randolph County; (2) location of the 1911 Pisgah Covered Bridge provides a unique and distinctive structure representing an established and familiar visual presence in the County of Randolph; and

WHEREAS, this property is more specifically described as follows:

The Pisgah Covered Bridge is located at 6925 Pisgah Covered Bridge Road, Asheboro, North Carolina, in Union Township, approximately 14 miles southwest of the City of Asheboro. The 54 feet length by 10 feet wide structure spans the West Fork Branch of the Little River within the Uwharrie National Forest. On the east side of the branch, the bridge connects to PIN# 7635430492, and on the west side, it connects to PIN# 7635338170. The bridge structure itself is owned by the North Carolina Zoological Park.

NOW, THEREFORE, BE IT ORDAINED, by the Board of Commissioners of the County of Randolph, North Carolina, that:

1: The property known as the 1911 Pisgah Covered Bridge, located at 6925 Pisgah Covered Bridge Road, within the planning jurisdiction of the County of Randolph, North Carolina, is hereby designated as a Local Historic Landmark pursuant to Chapter 160A, Article 19, Part 3C, of the North Carolina General Statutes;

2: That the 1911 Pisgah Covered Bridge may be materially altered, restored, remodeled, or demolished only following the issuance of a Certificate of Appropriateness from the Historic Landmark Preservation Commission;

3: *That nothing in this Ordinance shall be construed to prevent the ordinary maintenance or repair of any architectural feature in or on said property that does not involve a change of design, material or outer appearance thereof, after obtaining the necessary permits and official approval for said stated repair. Nothing herein shall prevent the construction, alteration, restoration, demolition, or removal of such feature when a building inspector or similar authorized official certifies to the Historic Landmark Preservation Commission that such action is required for the public safety because of an unsafe condition. Furthermore, nothing shall be construed to prevent the property owner from making any use of this property not prohibited by other statutes, ordinances, or regulations;*

4: *That a suitable sign may be posted indicating the designation as a Local Historic Landmark and containing appropriate information;*

5: *That the North Carolina Zoological Park, owner of the historic bridge, hereby accepts notice as required by the applicable law of this action, and that copies of this Ordinance be filed and indexed in the office the Clerk to the Board of County Commissioners, the Randolph County Register of Deeds, the Randolph County Tax Department, and the County Planning and Inspections Departments as required by applicable law.*

Update on Piedmont Triad Partnership (PTP)

Bonnie Renfro, Randolph County Economic Development Corporation Executive President, updated the Board on the PTP's recent restructuring and approval of new bylaws. She said that the intent of the restructuring was to merge the PTP and the Piedmont Triad Leadership Group Executive Committee. One of the major changes involves the membership of the Executive Committee. Under the new bylaws, counties directly investing \$25,000 or more into the PTP annually will be allowed a representative on the PTP Executive Committee. Currently, only Forsyth and Guilford Counties invest above that threshold amount; the remaining counties not investing \$25,000 or more may elect from among themselves a representative to serve on the Executive Committee. Randolph County's annual dues are about \$14,000/year.

Commissioner Kemp, who is Randolph's PTP liaison, said that he is hopeful that the PTP's new leadership will be effective. He said that he had been approached regarding his interest in being a voting member of the Executive Committee to represent the remaining 10 counties not contributing at least \$25,000. He said he would consider that appointment.

Approval to Change July Meeting Date

On motion of Frye, seconded by Kemp, the Board voted unanimously to set July 12 as the date for the July regular meeting due to the Independence Day holiday conflict with the first Monday of the month.

Recess

At 5:18 p.m., the Board took a short recess.

Public Hearing on Amendments to Unified Development Ordinance; Approval of Amendments

At 6:35 p.m., the Board adjourned to a duly advertised public hearing to consider amendments to the Unified Development Ordinance. Hal Johnson, Planning Director, said that the most intense Planning Department code enforcement activities involve violations of junked vehicle regulations and solid waste (i.e. illegal dumping) complaints. Since July 2002, Code Enforcement Officers have received 5,667 citizen complaints, 753 of which were junked vehicle violations. Enforcement of County Junked Vehicle regulations have resulted in the removal of 3402 junked vehicles (since July, 2002). A total of 597 junked vehicles have been removed since 2008. Beginning in October

2008, the County Attorney has processed over 371 code enforcement violations, most of which involve junked vehicle violations; however, court enforcement action has also been taken involving illegal storage yards, unpermitted mobile homes, and mobile home park violations. Since January 2007, County Code Enforcement Officers have responded to 626 complaints from citizens concerning solid waste dumping. Of these complaints, 360 were cleaned up by the property owner. Mr. Johnson said that it takes an average of three to four months to get the remainder of the sites still in violation resolved through the court system. In many cases, this time period can be extended due to court calendars and case delays.

Mr. Johnson said that the proposed amendments to the Unified Development Ordinance will give County Code Enforcement Officers the ability to issue citations of up to \$500 per day for ordinance violations. The ordinance amendments will also give a citizen the opportunity to appeal the citation to another local government level other than the local court system. The proposed amendments will allow the Code Enforcement Officer to provide a Notice of Violation, and to give the citizen a designated time to correct the violation. No time to correct the violation shall exceed 30 days. Mr. Johnson said that the proposed amendments have been developed in close consultation with the County Attorney, and reviewed in public hearing by the Randolph County Planning Board in December 2009 and January 2010. The County Planning Board recommended unanimously that these amendments be approved

Chairman Holmes opened the floor for public comment. Hearing no comments, the public hearing was closed.

On motion of Kemp, seconded by Frye, the Board voted unanimously to approve amendments to the United Development (Zoning) Ordinance allowing the issuance of citations, as follows:

ARTICLE XIII

ADMINISTRATIVE AND LEGAL PROVISIONS

Section 1. Administration of the Zoning Ordinance.

The Planning Director is designated as the Zoning Administrator of Randolph County. The Planning Director is hereby authorized, and it shall be his duty, to administer the provisions of this ordinance, to pursue all available remedies for enforcement, and to settle all violations that involve the payment of money to the County. Appeals from a decision of the Zoning Administrator concerning this ordinance shall be made to the Board of Adjustment as provided in Article XII, Section 9 of this ordinance.

Section 2. Zoning Permits.

Section 3. Determination of Exact Location of Zoning District Boundary Lines.

Section 4. Changes and Amendments.

Section 5. Moratoria.

Section 6. Interpretation, Purpose, and Conflict.

Section 7 Separability.

Section 8. Enforcement Procedure.

A. Notice of Violation. *The Zoning Administrator or designated Code Enforcement Officer, upon a determination that a violation of the ordinance has taken place, shall give written notice of the*

violation.

- B. **Service.** *The notice of violation shall be delivered to the violator by:*
1. *Hand delivery or certified mail to the violator's last known address; or*
 2. *Hand delivery or certified mail to the property in violation; or*
 3. *Posting of the notice, in a conspicuous location, at the property in violation.*

When service is made by certified mail, a copy of the notice may also be sent by regular mail. Service shall be deemed sufficient if the certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten (10) days after mailing.

- C. **Contents.** *The notice of violation shall include a description of the violation and its location, the measures necessary to correct the violation, the time period allowed to correct the violation, notice of the possibility of civil penalties and judicial enforcement action, notice of the possibility of criminal prosecution, and notice of the right of appeal to the Board of Adjustment.*
- D. **Time Period for Correcting Violations.** *The Zoning Administrator or designated Code Enforcement Officer shall determine the time period allowed to correct the violation based upon the standards set forth in the Code Enforcement Policies and Procedures Manual. No time period allowed to correct a violation shall exceed thirty (30) days after the date of receipt of the notice of violation.*
- E. **When Notice of Violation Not Required.** *The County may pursue remedies set forth in Section 9 of this article without a notice of violation under the following circumstances:*
1. *When a notice of the same violation has been issued to the same violator at the same property within the previous two (2) years; or*
 2. *When action is taken under Section 9(D) Permit Denial or Conditions; or*
 3. *When the County pursues criminal penalties against a violator under Section 9(E) Criminal Penalties.*
- F. **Appeals.** *All appeals of notices of violation must be brought within thirty (30) days after the date of receipt of the notice of violation and in accordance with Article XII, Section 9 of this ordinance.*
- G. **Noncompliance.** *Failure to complete the corrective measures set out in the notice of violation, from which no appeal has been taken, or failure to comply with a judgment of the Board of Adjustment after an appeal has been taken, shall subject the violator to one or more of the remedies or enforcement actions set out in Section 9 of this Article.*

Section 9. Remedies; Enforcement Action.

Enforcement may be by one, all, or a combination of the remedies described below or in other sections of this ordinance or by any other remedy authorized by common law or statute, including but not limited to NCGS 153A-123, -324, -334, and -361, et. seq.

- A. **Injunctive Relief.** *The County may pursue any appropriate equitable remedy, a mandatory or prohibitory injunction, or an order of abatement as authorized by NCGS 153A-123. The County may execute an order of abatement if the violator does not comply with such order, and the costs of execution shall be a lien on the property in the nature of a mechanic's or materialman's lien.*
- B. **Civil Penalties.** *The County may pursue civil penalties through the issuance of citations for violations as provided below.*
1. **Citation.** *The Zoning Administrator or designated Code Enforcement Officer may issue a citation for a violation after the time period set out in the notice of violation for taking corrective measures has expired.*
 2. **Service.** *The citation shall be delivered to the violator by:*
 - a. *Hand delivery or certified mail to the violator's last known address; or*
 - b. *Hand delivery or certified mail to the property in violation; or*
 - c. *Posting of the notice, in a conspicuous location, at the property in violation.*

When service is made by certified mail, a copy of the citation may also be sent by regular mail. Service shall be deemed sufficient if the certified mail is unclaimed or refused, but the regular

- mail is not returned by the Post Office within ten (10) days after mailing.
3. **Contents.** *The citation shall include the nature of the violation, the amount of the civil penalty, information about where to pay the civil penalty, the deadline for payment, notification of daily penalties for continuing violations, and the notification of possible civil and criminal enforcement.*
 4. **Penalty Amount.** *The Zoning Administrator or designated Code Enforcement Officer shall assess a civil penalty of up to \$500.00. Determination of the amount of the civil penalty for continuing violations shall be based upon the standards set forth in the Code Enforcement Policies and Procedures Manual.*
 5. **Deadline for Paying Civil Penalties.** *All civil penalties shall be paid on or before thirty (30) days after receipt of the notice of violation. Failure to pay civil penalties within said deadline may subject the violator to a civil action in the nature of a debt.*
 6. **Continuing Violations.** *The citation shall also include notice that a daily penalty of up to \$500.00 shall be assessed for each day of continued violation and that the penalty shall be cumulative. If the violation continues for more than thirty (30) days after receipt of the citation, payment of subsequent daily civil penalties must be made within twenty-four (24) hours for every day of violation past the thirtieth day.*
 7. **Settlement of Violations.** *Once a violation has been corrected, the Zoning Administrator or designated Code Enforcement Officer may waive payment of a single civil penalty or, in the case of a continuing violation, reduce the amount to a single-day civil penalty, if one or more of the following factors are present:*
 - a. *The violator has not previously received a citation for a violation;*
 - b. *The violation does not directly impact the public health and safety of the community;*
 - c. *The violation was difficult to correct in an expeditious manner; or*
 - d. *The degree of noncompliance was not substantial.*

If the violation has not been corrected, payment shall not release a violator from potential civil enforcement, criminal prosecution, injunctive relief, or an order of abatement.

8. **Appeals.** *All appeals of citations must be brought within thirty (30) days after the date of receipt of the citation and in accordance with Article XII, Section 9 of this ordinance.*
 9. **Judicial Action to Collect Civil Penalty.** *The County may file a civil action in the nature of a debt in any court of competent jurisdiction to collect an unpaid civil penalty after the thirty (30) day deadline for paying the civil penalty, set out in the notice of violation, has expired. Additional civil actions in the nature of a debt may be filed to collect an unpaid civil penalty for a continuing violation lasting more than thirty (30) days after receipt of the citation.*
- C. **Criminal Penalties.** *A violation of this ordinance shall constitute a Class 3 misdemeanor, as provided by NCGS 14-4, and shall be subject to a maximum fine of \$500.00 per violation. Each day of continued violation shall constitute a separate and distinct offense for purposes of criminal prosecution.*
 - D. **Permit Denial or Conditions.** *Any permit, certificate, or other authorization that has been issued for property on which there is an uncorrected violation may be withheld, or may be conditioned on the correction of the violation and/or payment of a civil penalty, and/or posting of a performance bond.*
 - E. **Permit Revocation or Voiding.** *Any permit, certificate or other authorization may be revoked or voided upon a written determination by the Zoning Administrator that the violation is substantial. Any permit or certificate mistakenly issued in violation of State law or local ordinance, or issued on the basis of misrepresentations by the applicant, owner, or owner's agent may be revoked or voided without written determination.*

Definitions.

Violator. Any person or entity that owns, leases, rents, occupies, manages, or builds any structure or engages in any land development activity in violation of this ordinance and any person or entity that owns, leases, rents, or occupies a use in violation of this ordinance.

Notice of Violation. A written notification of a violation of this ordinance, delivered to a violator by the Zoning Administrator or designated Code Enforcement Officer, indicating the nature of the violation and prescribing a time period for taking corrective measures.

Citation. An order to pay a civil penalty for a violation, delivered to a violator by the Zoning Administrator or designated Code Enforcement Officer, issued after the time period set out in the notice of violation for taking corrective measures has expired.

Civil Penalty. Remedial monetary penalties assessed as partial reimbursement to Randolph County for the enforcement of this ordinance.

Article XV

Section 22. Fines.

Any fines assessed pursuant to this Article or pursuant to Chapter Two, Article XIII, Section 9 of the Randolph County Unified Development Ordinance shall be considered a lien against the motor vehicle owner's property or the property on which the motor vehicle is located until such fine is paid in full.

Section 23. Penalty.

In addition to the remedies specified in this Article and the other remedies specified in N.C.G.S. 153A-123, the County may enforce this Article in accordance with Chapter Two, Article XIII, Section 9 of the Randolph County Unified Development Ordinance, which sets out both criminal and civil penalties for violation.

Flood Damage Prevention Ordinance

Article III

Section H. Penalties for Violation.

The County may enforce these regulations in accordance with Chapter Two, Article XIII, Section 9 of the Randolph County Unified Development Ordinance, which sets out both criminal and civil penalties for violation.

Approval to Set Public Hearing on Amendment to the Solid Waste Ordinance

Planning Director Hal Johnson stated that the Unified Development Ordinance includes Zoning, Subdivision, Watershed, and Flood regulations. In addition, the County Planning Department provides code enforcement for the Solid Waste Management Ordinance. The Solid Waste Management Ordinance provides enforcement provisions for the anti-littering laws (G.S. 14-399) and illegal dumping. Mr. Johnson requested that the Board hold a public hearing regarding the amendment to the Solid Waste Management Ordinance transferring Litter Code Enforcement responsibility to the Planning Department.

On motion of Kemp, seconded by Haywood, the Board voted unanimously to set a public hearing for 5:00 p.m., April 5, to make the appropriate amendments to the Solid Waste Ordinance transferring Litter Code Enforcement responsibility to the Planning Department.

Rezoning Public Hearing

At 6:35 p.m., the Board adjourned to a duly advertised public hearing to consider a rezoning request. Hal Johnson, Planning Director, presented the following request:

THOMAS SHEAN, Trinity, is requesting that 33.49 acres located on Jerico Road, Back Creek Township, be rezoned from RA to CVOE-CD. Tax ID# 7723361181. Secondary Growth Area. The proposed Conditional Zoning District would specifically allow a 19-lot residential subdivision for site-built homes only with a minimum house size of 1,200 sq. ft. The Planning Board reviewed this request at a public meeting on February 2, 2010, and recommended that this request be approved by a vote of 4 to 2.

The Planning Board found the following policies within the 2009 Growth Management Plan that support determination of consistency with the adopted plan with this recommendation:

Policy 6.5 The protection of viable rural neighborhoods should be encouraged by compatible residential development to insure the continued existence as a major housing source and as a reflection of the long term quality of life in Randolph County.

Policy 6.13 Conventional residential subdivisions are anticipated of similar housing characteristics to the community.

Bobby Earnhardt, 1825 Mountain Meadow Drive, Asheboro, said that the applicant approached him about buying and developing the property. He said that Mr. Shean is a businessman who lives in Randolph County and is ready and wants to retire here. He said Mr. Shean is dedicated to the County and has paid a lot of property taxes. He said that Mr. Shean is facing some financial trouble and must sell the property or lose everything. Mr. Earnhardt said that the reason he is considering purchasing and developing this property is to help his friend and himself and that this type of development is all that the current market will bear. However, if the neighbors are willing to buy the property, he will release Mr. Shean from their agreement. Mr. Earnhardt said that he has been building homes in the county for 25 years and is enjoying having the County's Growth Plan for guidance. He said that the proposed housing development would give young couples an opportunity to buy a new home. He mentioned that the Triad Multiple Listing Service (MLS) has 102 homes in the \$110,000-\$130,000 price range listed; of these, two are new construction, and of the three listed, two are owned by Mr. Earnhardt. He said that there is mixed housing everywhere and that properties are going to have to be developed into something and that it may be something less desirable like mobile home parks. If approved, Mr. Earnhardt said that the development would add more than \$2 million to the tax base. According to Mr. Earnhardt, approving this development would put a lot of county residents to work as subcontractors. He said that Mr. Shean must sell his land and warned that it is possible that he could make a mess of the property with single- or double-wides without this Board's approval. He asked the Board to put themselves in Mr. Shean's shoes—he's a 67-year-old who wants to retire and he must sell something. Mr. Earnhardt said that he would cut down the berm near the road and/or reduce the number of lots, if DOT deems it necessary. Mr. Earnhardt said that he did not want to reduce the number of lots unless he must, and he doesn't want to increase the minimum house size at this time. He also asked to reserve his right to answer questions that might be raised from the opponents' side.

Steve (Thomas) Shean, property owner and resident of 3722 Old Marlboro Rd.; Sophia, said that several neighbors have offered to buy the pretty part of his property but not the ugly part. He said he is in deep financial trouble and needs help. He mentioned that he has not removed the house that burned on his property because he cannot afford it. He said he capped the well on the property, but someone stole the cap, and then pictures were later taken of the uncapped well, purporting that Mr. Earnhardt is negligent as a property owner for not taking measures to insure the public's safety. He said that he is grateful to Mr. Earnhardt for his willingness to purchase the property and also mentioned that Mr. Earnhardt loaned Mr. Shean the money to pay his taxes this year. He urged the Board to approve the request.

Larry McKenzie, 1087 Bunting Rd.; Asheboro, spoke in favor of the request from a developer's standpoint. He said he had never met Mr. Earnhardt before this night. He said he believes that the Board should follow the Growth Management Plan. He also said that the lower priced homes are the only homes people are buying right now. He urged the Board to look at what is good for the county today. He said that Bobby Earnhardt has a good plan that meets the requirements of the County's Growth Management Plan. He also said that a developer needs to be able to depend on the Growth Management Plan so that he knows where he stands.

Charlie Game, 1616 Savannah Dr.; Asheboro, spoke in opposition to the request, saying that the 16-acre tract on which he resides backs up to the proposed subdivision and that he also owns an 89-acre tract on Jerico Rd. south of the site. Mr. Game said that he was representing a group of concerned citizens who oppose this development. Mr. Game said that originally Jerico Road was designated as a Rural Growth Area and was later changed to a Secondary Growth Area. He said that he and the neighbors would formally request that Jerico Road be changed back to a Rural Growth Area. He mentioned a petition containing the signatures of 98 property owners opposing the request that was presented to the Planning Board. He also spoke about information that had been sent to the Board that included a link to a website created by opponents of the proposed subdivision. He thanked Board members for visiting the site and the Planning Department and County Manager's staff for their assistance.

Harry Safrit, 1813 Jerico Rd.; Asheboro, spoke in opposition to the request, saying that he owns a small horse farm on Jerico Rd. He said they bought the property because of its tranquil setting and unique topography. He spoke about the area's abundance of cattle and pastureland and said that his nearest neighbor is 1500 feet away. He said that small farms in the area are a way of life and that the proposed subdivision would not reflect the rural character of the current community. He mentioned the County's impact analysis, which states that the average lot size within one mile of the proposed development is 14 acres; the proposed subdivision would not be consistent with this finding. Excluding Autumn Hills (a recent subdivision built by Mr. Earnhardt at the upper end of Jerico Road and similar to the proposed subdivision) the current average square footage of homes on the Jerico Rd. is approximately 1600 square feet. The average square footage of homes in Autumn Hills is 1245. He said that for homes in the area built in the last 15 years, the average square footage is much higher, averaging nearly 2400 sq. ft. Mr. Safrit said that he is not opposed to growth as long as it's responsible growth. He's afraid that approving this request would set a negative precedent for the area. Jerico Rd. is a Randolph County treasure and its rural character should be kept, according to Mr. Safrit.

Darren York, 1851 Jerico Rd.; Asheboro, spoke in opposition to the request, saying that his home is on a 20-acre tract. Mr. York expressed traffic safety concerns and mentioned that Jerico Rd. is a popular route for bikers and for organized charity bike rides. He also mentioned that the proposed subdivision would negatively impact the many (37 identified) species of wildlife in the area, including turkeys that were released 15 years ago and endangered rattlesnakes. According to Mr. York, the proposed subdivision would violate the following policies within the Growth Management Plan: 6.16, 6.22, 10.1 and 7.2.

Karen Safrit, 1813 Jerico Rd.; Asheboro, spoke in opposition to the request, saying that she owned a small horse farm on a 22-acre tract of land on Jerico Rd. She purchased the land 12 years prior for its scenic beauty and quiet nature. She said that there are already water supply and quality issues within a quarter of a mile of the proposed subdivision. She presented jars of water that she collected to the Board showing sediment and said that one property owner had to install a \$5,000

water filtering system in his home. She said that Mr. Shean's property had been clear-cut four years ago and has never been reforested. She is also concerned that storm water run-off from the new subdivision would adversely affect Caraway Creek and its aquatic life, along with nearby pasturelands. According to Ms. Safrit, the proposed subdivision would violate the following policies within the Growth Management Plan: 7.5, 7.8 and 6.2. Ms. Safrit also spoke about the already overcrowded Southwestern Randolph High School and said that 19 more homes would only add to this problem. She said that the tax base gained by 1200 sq. ft. homes would not cover the costs associated with the homes. Ms. Safrit warned that if this request is approved, Mr. Earnhardt would likely develop his other large tract up the road with small homes. She also mentioned a request several years ago by Jackie McNeil, where opponents had similar arguments and concerns; that request was denied. She urged the Board to deny this request, as well.

Chris Sturgis, 1919 Jerico Rd.; Asheboro, said that due to the topography of the area, it would not be feasible for Davidson Water, Inc. to run water to the proposed subdivision.

Terry Tysinger, 2098 Jerico Rd.; Asheboro, spoke in opposition to the request, saying that their horse farm has been in the family for four generations. He is concerned that 19 additional wells will adversely affect the ground water supply which their farm is hugely dependent upon for their horses; they use about 200 gallons of water a day. He also has concerns about potential sewage runoff into his pastures. He said that the increased traffic from 19 additional homes would negatively impact the horse farms/stables on Jerico Rd. Mr. Tysinger said that residents of the proposed subdivision would undoubtedly complain about farm sounds and odors. He said that the road's namesake, Jerico Butler, helped to clear Mr. Tysinger's land, and he urged the Board to deny this request. He said that the proposed subdivision would negatively alter the peaceful, scenic, farming character of the area. He said the area should also be classified as a Rural Growth Area in the Growth Management Plan.

Joe Bawley, 2252 Jerico Rd; Asheboro, spoke in opposition to the request, saying that most of the residents of Jerico Rd. feel strongly that the proposed subdivision would not be similar to existing homes and cited Growth Management Plan policies 6.5 and 6.13 to support this statement. There are horse farms and large-acre tracts along the road. The last three homes built were larger than 2400 sq. ft. The average parcel size is 14+ acres. He said that the proposed subdivision would be inconsistent with the rural character of the area. Mr. Bawley said that the subdivision would likely affect protected wildlife in the area, along with the scenic views and the ecology. He said that the Board's decision on this request would be profound. Mr. Bawley said that Jerico Rd. was in a natural corridor, where the ecology is significant to Randolph County and the state. There are youth camps all around because of the unique nature and beauty of the area. The area is exceptional with the Uwharrie Mountain topography, wildlife, rural character, horse farms and cattle pastures. He asked that the Board consider the residents' concerns and deny the request. He cited Growth Management Plan policies 6.3 and 6.5 that the proposed subdivision would violate.

Approximately 60 people stood in opposition to the request.

Hearing no further comments, the public hearing was closed.

After considerable discussion, Commissioner Haywood moved to deny the request of Thomas Shean. Commission Frye seconded the motion.

At this time, Bobby Earnhardt said that he would consider raising the minimum square footage of the homes in the proposed subdivision to 1300 sq. ft. but would not reduce the number of lots.

The Board voted 3-2, with Lanier and Kemp opposing, to deny the request of Thomas Shean, due to the Board's determination that the proposed subdivision would not be compatible and consistent with existing properties in the area, as specified in the following policies contained within the adopted Growth Management Plan. In addition, the Board determined that the denial of the proposed subdivision is reasonable and in the public interest, in that the proposed subdivision would present a danger to public safety, by adding 19 additional driveway connections along a curve on an existing secondary road with limited sight-lines and rolling topography.

Policy 1.3: The benefits of economic development should be balanced against the possible detrimental effects such development may have on the quality of life enjoyed by area residents;

Policy 2.14: The county should encourage the use of rural lot subdivision designs in those areas where it is found necessary to maximize the infiltration of precipitation to a private well field and insure sustainable groundwater supplies; and

Page 10, Public Policy: Individual rezoning decisions are dependent upon the scale of the proposed development as it relates to the specific site and location.

Adjournment

At 8:42 p.m., there being no further business, the meeting adjourned.

J. Harold Holmes, Chairman

Darrell L. Frye

Phil Kemp

Arnold Lanier

Stan Haywood

Cheryl A. Ivey, Clerk to the Board