

LEE COUNTY

NORTH CAROLINA

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MINUTES OF THE REGULAR MEETING OF THE BOARD OF COMMISSIONERS FOR THE COUNTY OF LEE, STATE OF NORTH CAROLINA

JULY 21, 2008

The regular meeting of the Board of Commissioners for the County of Lee, State of North Carolina, convened at 3:00 p.m. in the Commissioners' Room, Lee County Government Center, 106 Hillcrest Drive, Sanford, North Carolina, on said date. Commissioners present were Robert H. Brown, James C. Kelly, Jerry M. Lemmond, Nathan E. Paschal, John T. Quiggle, Robert T. Reives, and Linda A. Shook.

Chairman Brown presided and called the meeting to order. The following business was transacted:

County Attorney K. R. Hoyle delivered the invocation.

The pledge of allegiance was recited.

Ms. Lavelle McLean from the Employee Selection Committee introduced Mr. Carl Iceman, Animal Control Supervisor, with Lee County Animal Control, as the *July 2008 Employee of the Month*. Chairman Brown awarded Mr. Iceman with his awards which include a day off with pay, a *Star Award*, a framed certificate, a pizza (compliments of Papa John's Pizza), Coca Cola products from Sanford Coca Cola Bottling Company, and a movie rental from the Movie Gallery.

The Board considered changes to the agenda. County Manager John Crumpton asked the Board to pull Item III. C. from the Consent Agenda (Text Amendments to the Unified Development Ordinance) for further discussion, and add approval of Budget Amendment # 07/21/08/#02 (to the Consent Agenda) which will amend the Sheriff's Department budget for FY 2008-09. Commissioner Reives moved to approve the above changes to the agenda. Upon a vote, the results were as follows:

Aye: Brown, Kelly, Lemmond, Paschal, Quiggle, Reives, and Shook

Nay: None

The Chairman ruled the motion had been adopted unanimously.

Commissioner Reives moved to approve the agenda as amended. Upon a vote, the results were as follows:

Aye: Brown, Kelly, Lemmond, Paschal, Quiggle, Reives, and Shook
Nay: None

The Chairman ruled the motion had been adopted unanimously.

Commissioner Lemmond moved to approve the Consent Agenda as amended which consisted of the following items:

- Minutes from the June 16, 2008 Regular Meeting, June 16, 2008 Budget Work Session, June 19, 2008 Finance Committee Meeting, June 23, 2008 Special Meeting, and June 30, 2008 Special Meeting;
- Renewal Contract for Scrap Tire Recycling and Disposal with Central Carolina Holdings, LLC (copy attached);
- Resolution in Memory of Max D. Foster (copy attached);
- Tax Releases and Refunds for June 2008 (copy attached);
- Budget Amendment # 07/21/08/#01 (copy attached);
- Budget Amendment # 07/21/08/#02 (copy attached);
- Request to destroy financial records in the Finance Office (copy attached);
- Pre-Disaster Mitigation Grant Letter of Intent for Emergency Management;
- Emergency Operations Center Grant Program for Emergency Management;
- Revisions to the Lee County Personnel Policy;
- Mortgage-Style Foreclosure Program with Zaccheaus Legal Service (ZLS);
- Purchase of vehicle for Fire Marshal's Office; and
- Purchase of new vehicle for Sheriff's Department

Upon a vote, the results were as follows:

Aye: Brown, Kelly, Lemmond, Paschal, Quiggle, Reives, and Shook
Nay: None

The Chairman ruled the motion had been adopted unanimously.

The following signed up to speak during the *Public Comments* section of the meeting:

Mr. Russell Noel, 1413 Cherokee Trail, Sanford (discussed tax matters)

The Board considered Text Amendments to the Unified Development Ordinance. Assistant Community Development Director Marshall Downey presented the following four (4) text amendments to the Board for consideration:

- Amendment # 1 – Section 5.34.2.4 – Special Events of a Religious, Charitable or Civic Nature;
- Amendment # 2 – Article 5 – Add new language to establish regulations and design standards for free-standing ice vending units;
- Amendment # 3 – Amendment to allow accessory dwellings in the R-6, R-10, R-12 and MF-12 residential zoning districts; and
- Amendment # 4 – Section 4.12.12 – Appeal of Decision (Historic Preservation Commission).

Mr. Downey asked the Board to take action on Amendments 1, 2 and 4 and defer action on Amendment # 3 until such time it could go back before the Sanford City Council and Town of Broadway for approval. After some discussion, Commissioner Lemmond moved to approve *Ordinances Amending the Lee County Unified Development Ordinance* for Amendments 1, 2, and 4 above, copies of which are attached to these minutes and by this reference made a part hereof, and to defer action on Amendment 3. Upon a vote, the results were as follows:

Aye: Brown, Kelly, Lemmond, Paschal, Quiggle, Reives, and Shook
Nay: None

The Chairman ruled the motion had been adopted unanimously.

Commissioner Lemmond read and presented a *Resolution in Memory of Mr. Max D. Foster* to members of the family.

Mr. Chuck Dumas, District Engineer for the North Carolina Department of Transportation presented the 2008 Secondary Road Construction Program. After some discussion, Commissioner Kelly moved to approve a *Resolution Authorizing Funding for the 2008 Secondary Road Construction Program*, a copy of which is attached to these minutes and by this reference made a part hereof. Upon a vote, the results were as follows:

Aye: Brown, Kelly, Lemmond, Paschal, Quiggle, Reives, and Shook
Nay: None

The Chairman ruled the motion had been adopted unanimously.

At this time the Board conducted a public hearing for the FY 2008-09 Rural Operating Assistance Grant. Senior Services Representative Melanie Rodgers told the Board a public hearing was required prior to approving the grant application referenced above. Ms. Rodgers stated that Senior Services was in favor of the grant application, and the following funding levels have been allocated to Lee County for the FY 2008-09 Rural Operating Assistance Grant Application:

Elderly and Disabled Transportation Assistance - \$78,375.00 (no match required). These funds assist clients of Lee County Senior Services, Lee County Industries, and The Center for Independent Living, Dialysis patients and other elderly or disabled Lee County residents with needed transportation services.

Employment/Work First - \$12,100.00 (no match required). These funds assist Department of Social Services Work First clients, Workforce Development programs or other citizens in need of employment transportation.

Rural General Public - \$85,356.00 (minimum match required). A 10% fare is charged to passengers. These funds will be used to transport the public for various transit needs. Fare rates vary depending on pick-up and destination point of service.

Chairman Brown opened the advertised public hearing.

No one present spoke in favor of or in opposition to the above grant application.

Chairman Brown closed the public hearing.

Commissioner Reives moved to approve the *FY 2008-09 Rural Operating Assistance Grant*. Upon a vote, the results were as follows:

Aye: Brown, Kelly, Lemmond, Paschal, Quiggle, Reives, and Shook

Nay: None

The Chairman ruled the motion had been adopted unanimously.

Attorney Jeff Ward completed the required paperwork to appear before the Board. Mr. Ward, on behalf of Tuscarora Builders, Inc., asked the Board for relief from payment of 2006 property taxes in the amount of \$1,858.15 for property located at 101 Heavens Gate Court, Sanford (parcel ID No. 9529-45-6452-00). Mr. Ward stated that when the property was purchased in February 2008 a check of the taxes was completed on the Lee County website. Information furnished by the website at that time showed there were no taxes due on the property. Tuscarora Builders has now been advised that 2006 taxes are due on said property. The property in question is currently for sale and in order for the sale to precede the property owners have paid the past due 2006 taxes. Mr. Ward asked the Board for relief of said taxes and a refund of the 2006 taxes based on its reliance on the Lee County website. Tax Administrator Dwane Brinson stated the website includes a "Disclaimer Notice" stating information might not be correct or accurate. After some discussion, Commissioner Lemmond moved to refund the full amount of 2006 taxes as requested by Attorney Ward. After further discussion, Commissioner Shook moved to only refund penalties and interest in the amount of \$93.50 on the 2006 taxes as requested by Attorney Ward. Upon a vote of Commissioner Shook's motion, the results were as follows:

Aye: Brown, Kelly, Lemmond, Paschal, and Reives, and Shook

Nay: Quiggle

The Chairman ruled the motion had been adopted by a six to one vote.

The Board considered the Local Emergency Planning Committee Membership Roster for FY 2008-09. Emergency Management Director Eric Griffin stated that in accordance with the Emergency Planning and Community Right to Know Act (EPCRA) passed by the United States Congress in 1986 and the Comprehensive Environmental Response, Compensation, and Liability Act, requires local governments to establish Local Emergency Planning Committees (LEPC). The Committee's mission is to provide a mechanism for ensuring that effective emergency plans as they pertain to hazardous materials within the community exist, are updated, and tested. The Board is asked to ratify the membership roster presented so it may be forwarded to the State Emergency Response Commission for adoption. After some discussion, Mr. Griffin was asked to include three (3) additional slots for Law Enforcement to include representatives from the City of Sanford and Town of Broadway. Mr. Griffin also asked the Board to appoint a Commissioner to serve on the LEPC Committee. Commissioner Shook moved to approve the Local Emergency Planning Committee Membership Roster as amended, and appoint Chairman Brown to serve as the Commissioner representative on that Committee until his term as a Commissioner expires in December. Upon a vote, the results were as follows:

Aye: Brown, Kelly, Lemmond, Paschal, Quiggle, Reives, and Shook
Nay: None

The Chairman ruled the motion had been adopted unanimously.

The Board considered the refund of 2007 property taxes for Ms. Peggy Joyner. Tax Administrator Dwaine Brinson stated that in August 2005, while conducting the 2007 countywide revaluation, Ms. Peggy Joyner's home was revisited by one of the tax office appraisers. The appraiser noticed that the windows above the first story were covered with blinds – assuming the house was a 1.5 story. The 2007 tax value was not appealed, even though Ms. Joyner acknowledges receipt of her revaluation notice. Ms. Joyner came to the tax office in 2008 to question her value. At this meeting it was determined there was no finished area above the first floor, thereby reducing her value. Since Ms. Joyner did not appeal her 2007 tax value, and this error is defined by the UNC School of Government, the Supreme Court and Court of Appeals as not being a “clerical error”, it was determined she was not entitled to any refund of taxes. The new value will become effective for 2008. After some discussion, Commissioner Paschal moved to deny the request for a 2007 tax refund for Ms. Peggy Joyner and to proceed with the current change in tax value for 2008. Upon a vote, the results were as follows:

Aye: Brown, Kelly, Lemmond, Paschal, and Shook
Nay: Quiggle and Reives

The Chairman ruled the motion had been adopted by a five to two vote.

The Board considered a voting delegate for the August 2008 North Carolina Association of County Commissioners (NCACC) Conference. The NCACC asks each county to select a voting delegate who will cast their county's vote for officers as well as any other resolutions voted on during the annual business session. Commissioner Lemmond moved that Chairman Brown be delegated as Lee County's voting delegate for the August 2008 conference. Upon a vote, the results were as follows:

Aye: Brown, Kelly, Lemmond, Paschal, Quiggle, Reives, and Shook
Nay: None

The Chairman ruled the motion had been adopted unanimously.

The Board considered a request to replace the chiller unit at the Lee County Courthouse. County Manager John Crumpton stated the current chiller at the courthouse is approximately 15 years old and has experienced numerous problems over the past 6 weeks. General Service's staff along with outside vendors has done everything they could to try and save/repair the unit. Inspections were recently completed by three outside individuals, and the decision has been made that the unit is not repairable and needs to be replaced. Mr. Crumpton stated the time frame to design, award the bid, and install the new unit would be approximately 6 to 8 weeks. It is anticipated a new unit will cost approximately \$275,000 which will include the engineering fees, cost of a new unit and associated costs for the rental unit currently serving the courthouse. Mr. Crumpton recommended that staff be allowed to move forward with the design and bidding of a new chiller unit and allocate funds from the Fund Balance to cover the expense. Commissioner Reives suggested that HVAC units at the Main Library on Hawkins Avenue and the Lee County Government Center is inspected due to the number of years they've been in service. After some discussion, Commissioner Quiggle moved to accept the County Manager's recommendation to proceed with bids and hire a mechanical engineer to

replace the chiller unit at the Courthouse and have the HVAC units at the Library and Government Center inspected. Upon a vote, the results were as follows:

Aye: Brown, Kelly, Lemmond, Paschal, Quiggle, Reives, and Shook
 Nay: None

The Chairman ruled the motion had been adopted unanimously.

The Board considered a Policy on *Public Information/Freedom of Information Act* Requests. County Manager John Crumpton told the Board the County’s current policy on this matter is an executive policy issued by the previous County Manager. Since the policy enacts a fee for the cost of copies, the County Commissioners are the authority that should adopt this policy. Mr. Crumpton stated that with the demand for frequent requests for information from the public, we need to make sure all employees follow the intent of the law. In the current short session of the legislature a new bill is being pushed through that could allow judges the ability to require the county to pay attorney’s fees for individuals or entities that seek information through the court system when they were entitled to the information under the law. With this new bill, it is now even more important to make sure we are in compliance with the Act. Mr. Crumpton presented a proposed Public Record Requests: Policy and Procedures for the Board to consider. After some discussion, minor revisions were made to the Policy. Commissioner Reives moved to approve the amended *Policy on Public Information*, a copy of which is attached to these minutes and by this reference made a part hereof. Upon a vote, the results were as follows:

Aye: Brown, Kelly, Lemmond, Paschal, Quiggle, Reives, and Shook
 Nay: None

The Chairman ruled the motion had been adopted unanimously.

The Board considered appointments to Boards and Commissions that were not filled at the June meeting. Clerk to the Board Gaynell Lee presented applications to the Board for consideration. The following individuals were appointed to various Boards and Commissions for the terms listed:

<u>BOARD/COMMISSION</u>	<u>TERM</u>	<u>TERM EXPIRES</u>
Lee County Environmental Affairs Board		
Ophelia Livingston	3 Years	June 2011
Industrial Facilities and Pollution Control Financing Authority		
Ophelia Livingston	6 Years	June 2014
Lee County Planning Board		
Roy Cox (1 st alternate) *	3 Years	June 2011
Dowell Eakes (2 nd alternate) *	3 Years	June 2011
Parks & Recreation Commission		
Telesford Aguirre *	3 years	June 2011
April Montgomery *	3 years	June 2011
Parker McConville	3 years	June 2011

Mike Allred (1 st alternate) Filled unexpired term	1 year	June 2009
Tommy Fallin (2 nd alternate) Filled unexpired term	1 year	June 2009

(*) Reappointments

Finance Director Lisa Minter presented the *Monthly Financial Report* for month ending June 2008. Chairman Brown moved to approve the report as presented. Upon a vote, the results were as follows:

Aye: Brown, Kelly, Lemmond, Paschal, Quiggle, Reives, and Shook
Nay: None

The Chairman ruled the motion had been adopted unanimously.

The Board considered an *Ordinance Prohibiting Smoking in Lee County Buildings*. County Manager John Crumpton told the Board he had received a letter from District Attorney Susan Doyle requesting that the Lee County Courthouse be designated as a non-smoking building; specifically, the attorney lounge on the second floor of the courthouse. Ms. Doyle stated she has two pregnant employees that are concerned about second-hand smoke for their unborn babies. Mr. Crumpton presented a "Draft" Ordinance for the Board to consider that would prohibit smoking in any/all Lee County owned or leased facilities. Mr. Crumpton further stated that Register of Deeds Mollie McInnis and Clerk of Court Ann Blakely are in favor of a smoking ban. Sheriff Carter has remained neutral on the matter. Mr. Crumpton stated if an Ordinance was adopted, the City of Sanford would be asked to enforce the ruling. After some discussion, Commissioner Reives moved to defer action on the matter until something in writing could be obtained from the Register of Deeds, Clerk of Court, and Lee County Bar Association. Upon a vote, the results were as follows:

Aye: Brown, Kelly, Lemmond, Paschal, Reives, and Shook
Nay: Quiggle

The Chairman ruled the motion had been adopted by a six to one vote.

County Manager John Crumpton stated that Consultant Ray Martin had completed a report from the recent inspection of Lee County High School. Mr. Martin stated that only minor "non-emergency" maintenance/housekeeping items had been found from their visit. After some discussion, Commissioner Reives moved to accept the report and forward a copy to the Board of Education and Parents for Parity Organization. Upon a vote, the results were as follows:

Aye: Brown, Kelly, Lemmond, Paschal, Quiggle, Reives, and Shook
Nay: None

The Chairman ruled the motion had been adopted unanimously.

County Manager John Crumpton reminded Commissioners of the July 28th public informational meeting that BRAC representatives will conduct at the Cooperative Extension Office. All Commissioners were encouraged to attend.

County Manager John Crumpton asked the Board to consider a Letter of Intent to the Golden LEAF Foundation in support of technology upgrades in the 12 regional school systems, community colleges, and universities throughout the BRAC impacted region. After discussion, Commissioner Quiggle moved to approve a *Letter of Intent* to Golden LEAF, a copy of which is attached to these minutes and by this reference made a part hereof. Upon a vote, the results were as follows:

Aye: Brown, Kelly, Lemmond, Paschal, Quiggle, Reives, and Shook
Nay: None

The Chairman ruled the motion had been adopted unanimously.

County Manager John Crumpton discussed a BRAC Real Estate/Relocation Housing Fair scheduled for September in Fort McPherson, Georgia. Lee County has been asked to send up to three (3) representatives to attend the Fair for an opportunity to promote the county and provide information to potential residents. It was suggested that someone from Economic Development, the Chamber of Commerce, and the Board of Realtors attend the Relocation Fair. After discussion, Commissioner Paschal moved for the County Manager to select three representatives from Lee County to attend the Relocation Housing Fair in Fort McPherson, Georgia, on September 10-11, 2008. Upon a vote, the results were as follows:

Aye: Brown, Kelly, Lemmond, Paschal, Quiggle, Reives, and Shook
Nay: None

The Chairman ruled the motion had been adopted unanimously.

The Board considered a request from the Sanford City Council to appoint Councilman Charles Taylor as an ex-officio member to the Lee County Parks and Recreation Commission. After some discussion, Commissioner Shook moved to appoint Councilman Charles Taylor to the Parks and Recreation Commission as an ex-officio non-voting member. Upon a vote, the results were as follows:

Aye: Brown, Kelly, Lemmond, Paschal, Quiggle, Reives, and Shook
Nay: None

The Chairman ruled the motion had been adopted unanimously.

Commissioner Reives moved to dedicate the July 21, 2008 Commissioner's meeting in memory of U.S. Senator Jesse Helms. Mr. Reives stated that he appreciated people who are willing to stand their ground for what they believe in. Upon a vote, the results were as follows:

Aye: Brown, Kelly, Lemmond, Paschal, Quiggle, Reives, and Shook
Nay: None

The Chairman ruled the motion had been adopted unanimously.

Commissioner Lemmond discussed various workshops he attended at the recent NACo Conference in Kansas City, Missouri.

Commissioner Kelly asked County Manager John Crumpton to provide an update at the next meeting on Code Enforcement as it relates to illegal dumping in the Unified Development Ordinance.

Commissioner Shook questioned if the Sheriff could charge prisoners to compensate the County when they are serving time in jail. She stated she would provide County Attorney K. R. Hoyle with information she had located on the internet for his review.

Commissioner Lemmond stated he would like to change his vote in reference to the agenda item for a 2007 tax refund for Ms. Peggy Joyner. Based on the Board's Rules of Procedure, a motion must be made to reconsider the matter. Commissioner Lemmond, who voted against a tax refund for Ms. Joyner earlier in the meeting, moved to reconsider the vote. Upon a vote of Commissioner Lemmond's motion, the results were as follows:

Aye: Lemmond
Nay: Brown, Kelly, Paschal, Quiggle, Reives, and Shook

Chairman Brown ruled the motion failed.

Chairman Brown moved to go into closed session to discuss matters relating to the location or expansion of a business in the area per N. C. Gen Stat 143-318.11(a)(4) and to discuss a personnel matter per N. C. Gen Stat 143-318.11(a)(6). Upon a vote, the results were as follows:

Aye: Brown, Kelly, Lemmond, Paschal, Quiggle, Reives, and Shook
Nay: None

The Chairman ruled the motion had been adopted unanimously.

Chairman Brown called for a 10-minute recess at this time.

After the recess, Chairman Brown called the closed session to order in the Small Conference located in the Lee County Government Center. After completing business in closed session, Commissioner Quiggle moved to go out of closed session. Upon a vote, the results were as follows:

Aye: Brown, Kelly, Lemmond, Paschal, Quiggle, Reives, and Shook
Nay: None

The Chairman ruled the motion had been adopted unanimously.

Chairman Brown called the meeting to order in open session with all Commissioners present.

Commissioner Paschal moved to hold a public hearing at the August 18, 2008 meeting to consider an economic development incentive package between the Lee County Economic Development Corporation and Parkdale Mills. Upon a vote, the results were as follows:

Aye: Brown, Kelly, Lemmond, Paschal, Quiggle, Reives, and Shook
Nay: None

The Chairman ruled the motion had been adopted unanimously.

Commissioner Lemmond moved to authorize the Lee County Board of Health to use up to \$5,000 to cover moving expenses and temporary living expenses for the new Health Director. Upon a vote, the results were as follows:

Aye: Brown, Kelly, Lemmond, Paschal, Quiggle, Reives, and Shook
Nay: None

The Chairman ruled the motion had been had been adopted unanimously.

Commissioner Paschal moved for County Manager John Crumpton to assume duties as Interim Health Director for twenty-five (25) days after Mr. Hanes retires and until the new Health Director comes on board. Upon a vote, the results were as follows:

Aye: Brown, Kelly, Lemmond, Paschal, Quiggle, Reives, and Shook
Nay: None

The Chairman ruled the motion had been adopted unanimously.

At 6:10 p.m., Chairman Brown recessed the meeting until 7:00 p.m.

The meeting resumed at 7:00 p.m. in Courtroom #4 at the old Lee County Courthouse, 1408 S. Horner Blvd., Sanford, North Carolina. Commissioners present were Robert H. Brown, Jerry M. Lemmond, Nathan E. Paschal, and Robert T. Reives. Commissioners James C. Kelly, John T. Quiggle, and Linda A. Shook had been excused.

Chairman Brown called the meeting to order.

Planner Althea Thompson outlined the rezoning petition submitted by Mr. Robert Tucker to rezone approximately 22.88 acres of land located at 1385 Dycus Road from Residential Agricultural (RA) district to Residential Restricted (RR) district.

Chairman Brown opened the public hearing.

Mr. Robert Tucker of 7416 Roberts Road, Sanford, spoke in favor of the rezoning petition.

No one present spoke in opposition to the rezoning petition.

Chairman Brown closed the public hearing.

With no further business to come before the Board, Commissioner Reives moved to adjourn the meeting. Upon a vote, the results were as follows:

Aye: Brown, Lemmond, Paschal, and Reives
Nay: None
Absent: Kelly, Quiggle, and Shook

The Chairman ruled the motion had been adopted unanimously and the meeting adjourned at 7:20 p.m.

ATTEST:

Robert H. Brown, Chairman
Lee County Board of Commissioners

Gaynell M. Lee, Clerk