

**Windsor, North Carolina
May 6, 2013
Regular Meeting**

The Bertie County Board of Commissioners met for a regular meeting at 10:00 AM in the Commissioners Room with the following members present or absent:

Present: J. Wallace Perry, Chairman
Charles L. Smith, Vice-Chairman
Rick Harrell
John Trent
Ronald "Ron" Wesson

Absent: None

Staff Present: Interim County Manager John E. Whitehurst
Assistant County Manager Misty Gibbs
County Attorney Lloyd Smith

Chairman Perry opened the meeting.

INVOCATION & PLEDGE OF ALLEGIANCE

Commissioner Trent led the invocation and Pledge of Allegiance.

PUBLIC COMMENTS

MS. NANCY LILLIAN HARDEN REGARDING CONVENIENCE CENTERS

Ms. Lillian Harden stated that she and her husband farm and before the convenience sites were in the County, the roads were littered with trash. Ms. Harden stated that the days and hours of service at the convenience centers are convenient. Ms. Harden stated that she wished to see the convenience centers remain open. Ms. Harden stated that taxpayers also don't need another increase in taxes.

APPOINTMENTS

PUBLIC HEARING TO RECEIVE INPUT REGARDING A COUNTYWIDE FRANCHISE AGREEMENT THAT COULD PRIVATIZE CURBSIDE MUNICIPAL WASTE AND OR RECYCLABLE MATERIALS, SERVICES AND COLLECTIONS IN THE UNINCORPORATED AREAS OF BERTIE COUNTY

Chairman Perry stated that the Board was considering its options for dealing with solid waste in the County, but had by no means made up its mind on this issue. Mr. Perry stated that the Board wanted to hear the opinions of citizens while considering its options regarding this matter.

Chairman Perry opened up the public hearing.

Mr. George Copeland stated that he remembered what the County looked like years ago before the Convenience Centers were in place. Mr. Copeland stated that there was trash strewn up and down the roads. Mr. Copeland stated that he did not want to see that happen again.

Mr. Larry Taylor stated that he agreed with Mr. Copeland and Ms. Harden. Mr. Taylor stated that he opposed changing the current system for handling solid waste. Mr. Taylor stated that he was concerned about the safety of curbside trash pickup, especially on curvy roads such as Highway 45. Mr. Taylor stated that he was concerned about windy days where trash put at the road would be blown out of the container. Mr. Taylor stated that he is paying taxes on several pieces of property and the only benefits he sees personally from those taxes are the convenience centers and the Sheriff's Office services.

Ms. Gail Harris stated that she was against closing the convenience center sites. Ms. Harris stated that she did not want to see a tax increase for this. Ms. Harris stated that a tax increase could be better used for other services. Ms. Harris stated that qualified people work at the convenience centers. Ms. Harris stated that the convenience center days and hours are convenient for citizens.

Ms. Judy Hughes stated that she lives right outside of the Town of Aulander, but the Town's trash service will not pick up her trash. Ms. Hughes stated that she has to dump trash at the Lewiston site, which is eight miles from her home. Ms. Hughes stated that with her arthritis and other health issues she cannot pick up those bags. Ms. Hughes stated that she would support any service that would help the senior citizens in the county. Ms. Hughes stated that if citizens pay by the month for the service, she did not think the taxes would increase. Ms. Hughes stated that she could not see paying by the month and having a tax increase also.

Ms. Lucille Phelps stated that she would like to see the dump sites kept where they are located. Ms. Phelps stated that she believed closing the convenience centers would lead to more debris, bedding, and furniture dumped across the county.

Sergeant Judy Bowen stated that the convenience centers have good track records. Mr. Bowen stated that using the sites was very convenient to take little things. Mr. Bowen asked that the Board have a set price for services. Mr. Bowen stated that he would like the Board to also consider private roads, including considering who would pay for the service and how trash pick-up would be handled on those. Mr. Bowen stated that the sites are convenient with convenient hours. Mr. Bowen stated that he liked that he could take oil to the sites. Mr. Bowen asked that the Board look at all aspects before making a decision.

Mr. John Davis stated that he had heard a lot of assumptions about how this situation would be handled and had received a lot of phone calls himself about this issue. Mr. Davis asked that the Board debate this issue and come up with the answers for citizens. Mr. Davis stated that he did not know how he felt about the situation yet because he would need more facts. He asked that the Board arm people with information.

Ms. Patsy Conner stated that she is concerned because she lives inside town limits and already pays for trash pick-up. She asked if her taxes would increase if door to door county pick up was provided. Ms. Conner stated that maybe there could be an option for citizens who cannot get to the convenience centers or who have to drive a long distance to get to one.

Ms. Judy Hughes asked where the dump sites are located. Chairman Perry listed off the locations of the convenience centers, noting that there are five sites in a 741 square mile county. Ms. Hughes stated that her son is in the Center Grove area of the County and the nearest site to him is quite a distance away. Chairman Perry stated that he knew several residents in the Center Grove area have called him and appealed to him to have an extra convenience center added because now they are paying a private hauler to take their trash.

Chairman Perry closed the public hearing.

A citizen in the audience asked the Board to keep citizens advised of discussions regarding this matter. Chairman Perry asked that citizens pay attention to the newspaper because if another public hearing is held, it would be advertised in the Bertie Ledger and on the County's website.

RECESS

The Board took a two-minute recess.

SWEARING IN OF THE BOARD OF EQUALIZATION AND REVIEW

Chairman Perry called the meeting back to order.

Register of Deeds Annie Wilson gave the following oath of office to Commissioner John Trent and Commissioner Ronald Wesson:

I, _____, do solemnly affirm that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith; that I will faithfully discharge the duties of my office as a member of the Board of Equalization and Review of Bertie County, North Carolina; and that I will not allow my actions as a member of the Board of Equalization and Review to be influenced by personal or political friendships or obligations, so help me God.

CONVENE AS THE BOARD OF EQUALIZATION AND REVIEW

Chairman Perry convened the Board as the Board of Equalization and Review.

BOARD OF EQUALIZATION AND REVIEW

Deputy Tax Collector Jodie Rhea stated that Ms. Margaret Urquhart had issued a letter of appeal for the 2013 tax year to reduce the value on her property pin #5836603278 stating that she believed the \$208,325.00 value to be inequitable for this property because of its current functional and economic obsolescence and because the 2012 valuation is far higher than similar neighboring properties. Mr. Rhea stated that it is the position of the Tax Department that Ms. Urquhart's value is not equitable to comparable properties in her area and suggests that adjustments be made to functional and economic obsolescence to arrive at a value similar to that of the other properties. Mr. Rhea stated that Pearson Appraisal agrees with this determination.

Chairman Perry asked Mr. Rhea what was the Tax Department and Pearson Appraisal's recommendation for the value. Mr. Rhea stated that they recommend a value of \$150,000.00.

Commissioner Wesson introduced a **MOTION** to approve to adjust the value of property pin #5836603278 to \$150,000.00. Commissioner Trent **SECONDED** the motion. The **MOTION PASSED** unanimously.

RECESS BOARD OF EQUALIZATION AND REVIEW

Chairman Perry recessed the Board of Equalization and Review to June 3, 2013 at 10:00 AM in the Commissioners Room, Windsor.

MS. DONNA NIXON OF PIERCE GROUP BENEFITS REGARDING HEALTH INSURANCE PLAN

Ms. Donna Nixon discussed the health coverage options for the County as identified by Pierce Group Benefits. Ms. Nixon discussed her findings when looking at the County's current plan, including that fewer employees here use generic drugs than in other counties. Ms. Nixon discussed the need for education on generic drugs.

Ms. Nixon discussed the following health coverage options:

Bertie County Government Health Coverage Options

July 1, 2013 - June 30, 2014

Benefit Provider	BCBS - Current	BCBS - Renewal	BCBS - Revised Renewal	BCBS 4250661	BCBS 4272663	BCBS 4272668	FCC	Cigna	
		Prior Release	PGB Negotiated	A	B	C	D	E	
Primary Care Office Visit	\$35 copayment	\$35 copayment	\$35 copayment	\$25 copayment	\$35 copayment	\$25 copayment	\$25 copayment	\$35 copayment	
Specialist Office Visit	\$70 copayment	\$70 copayment	\$70 copayment	\$50 copayment	\$70 copayment	\$50 copayment	\$45 copayment	\$70 copayment	
Preventative Care Program	100%, no deductible	100%, no deductible	100%, no deductible	100%, no deductible	100%, no deductible	100%, no deductible	100%, no deductible	100%, no deductible	
Emergency Room	\$150 copayment	\$150 copayment	\$150 copayment	\$300 copayment	\$150 copayment	\$300 copayment	\$150 copay + 30%	\$150 copayment	
Urgent Care Center	\$70 copayment	\$70 copayment	\$70 copayment	\$50 copayment	\$70 copayment	\$50 copayment	\$75 copayment	\$70 copayment	
Inpatient Hospital Services	70% after deductible	70% after deductible	70% after deductible	70% after deductible	70% after deductible	70% after deductible	70% after deductible	70% after deductible	
Outpatient Hospital Services	70% after deductible	70% after deductible	70% after deductible	70% after deductible	70% after deductible	70% after deductible	70% after deductible	70% after deductible	
Deductible	\$1,000/individual \$3,000/family	\$1,000/individual \$3,000/family	\$1,000/individual \$3,000/family	\$2,000/individual \$4,000/family	\$1,000/individual \$3,000/family	\$2,000/individual \$4,000/family	\$1,000/individual \$3,000/family	\$1,000/individual \$3,000/family	
Coinsurance Maximum	\$3,000/individual \$9,000/family	\$3,000/individual \$9,000/family	\$3,000/individual \$9,000/family	\$4,000/individual \$12,000/family	\$3,000/individual \$9,000/family	\$4,000/individual \$12,000/family	\$4,000/individual \$8,000/family	\$3,000/individual \$9,000/family	
RX	\$10/\$40/\$55/75%	\$10/\$40/\$55/75%	\$10/\$40/\$55/75%	\$10/\$40/\$55/75%	\$10/50% up to \$100	\$10/50% up to \$100	\$8/\$35/\$55	\$10/\$30/\$60	
Monthly Rate									
	Covered Lives			Includes Package Discount with Basic Life Insurance					
Employee	130	\$581.83	\$663.48	\$617.10	\$583.88	\$581.21	\$550.97	\$605.74	\$556.24
Employee/Spouse	2	\$1,284.18	\$1,462.26	\$1,362.00	\$1,288.66	\$1,282.78	\$1,216.04	\$1,336.97	\$1,227.60
Employee/Child	12	\$815.91	\$930.16	\$865.18	\$818.61	\$814.86	\$772.47		
Employee/Children	3	\$1,104.67	\$1,259.93	\$1,189.04	\$1,108.79	\$1,103.74	\$1,046.31	\$849.44	\$1,056.27
Family	2	\$1,468.82	\$1,674.56	\$1,557.60	\$1,473.75	\$1,467.00	\$1,390.69	\$1,529.19	\$1,404.48
Total Annual Premium	149	\$1,130,985.96	\$1,289,613.00	\$1,200,140.08	\$1,134,947.94	\$1,129,750.82	\$1,070,974.90	\$1,166,647.62	\$1,121,028.27
Total County Contribution		\$1,040,312.04	\$1,186,302.24	\$1,103,377.04	\$1,043,979.23	\$1,039,195.88	\$985,131.23	\$1,083,070.72	\$994,551.31
Annual Difference from Current- County Contribution			\$145,990.20	\$63,064.99	\$3,667.19	(\$1,116.16)	(\$55,180.81)	\$42,758.68	(\$45,760.73)
County Annual Premium % Change From Current			14.03%	6.06%	0.35%	-0.11%	-5.31%	4.11%	-4.40%
Employer Annual Premium Change from Renewal				(\$82,925.21)	(\$142,323.01)	(\$159,862.18)	(\$218,638.10)	(\$103,231.52)	(\$191,750.93)

This information is for comparison purposes only, please see proposal for specific coverage/limitations. Pricing/Benefits are subject to change. Upon receiving policy, please see the insurance carrier certificate/policy for a complete list of policy provisions.

Ms. Nixon discussed the benefits to employees of a flex spending account. Ms. Nixon stated that she would be able to talk to employees about the benefits of this type of account also.

Ms. Nixon discussed the deductible in the current plan and in the other options. Ms. Nixon stated that only 19 employees have met the current deductible.

Ms. Nixon discussed the impact of healthcare reform. Ms. Nixon stated that the commission in the Pierce Group Benefits proposed contract is 2.5%. Ms. Nixon stated that, if chosen to be the County's Broker, she would like to implement a healthy outcomes program. Ms. Nixon stated that if at least 50% of employees make at least 125 points in the program, the County will get a 5% discount on health insurance at renewal. Ms. Nixon discussed this program.

The Board and staff discussed this information.

Commissioner Harrell introduced a **MOTION** to approve the service contract with Pierce Group Benefits. Commissioner Wesson **SECONDED** the motion. The **MOTION PASSED** unanimously.

Commissioner Wesson introduced a **MOTION** to choose BCBS 4250661 A from the list of options for the County's health insurance plan in FY 2013-2014. Commissioner Trent **SECONDED** the motion. The **MOTION PASSED** unanimously.

SUPERINTENDENT ELAINE WHITE PRESENTED THE FY 2013-2014 BUDGET REQUEST FROM BERTIE COUNTY SCHOOLS

Ms. White introduced the Board of Education members and staff of Bertie County Schools present. Finance Officer Pearline Bunch was present to discuss the School System budget as well.

Ms. White gave a PowerPoint presentation giving statistics on Bertie County Schools and outlining the budget request from the Board of Education for FY 2013-2014. This proposal included the request to keep the same local funding allocation of \$3,003,000.00 and to increase the capital budget from \$375,000.00 to \$500,000.00.

The Board of Commissioners and School System representatives discussed the budget request.

Ms. White discussed the teacher supplements given and the successful job fair held recently.

Commissioner Wesson stated that he had heard people say that they don't really understand the performance levels for the schools. Mr. Wesson asked if it would be possible to have something very clear and concise put together to show the goals and objectives of each school so that the average citizen can see if each school is making progress. Ms. White discussed the Report Card issued by the State for each school. Ms. White stated that the district report card and school report card go home to parents each year. Ms. White discussed other methods to get information out to parents.

Interim County Manager Whitehurst inquired about the fund balance increase from \$53,000.00 to over \$900,000.00 in the FY 2010-2011 audit. Ms. Bunch stated that this was achieved by using everything they could in State funds and because there were no emergencies. Mr. Whitehurst inquired about the current fiscal year fund balance for the school system. Ms. White and Ms. Bunch did not have that information at the time.

ARCHITECT JIMMY HITE AND MS. ANN WILLIAMS OF HITE ASSOCIATES REGARDING CHANGE ORDER REQUEST

Architect Jimmy Hite gave a PowerPoint presentation on the proposed change order. The change order proposal from Hite Associates is as follows:

Hite associates

ARCHITECTURE / ENGINEERING / TECHNOLOGY

April 30, 2013

Bertie High School Project Change Order Request Update

<u>Initial Unencumbered Funds</u> (as project began)	\$300,000.00 contingency 50,000.00 DOT reimbursement <u>150,000.00</u> e-rate reimbursement +500,000.00 total unencumbered funds(not including furn.)
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Change Order #1 Approved not to exceed	<u>- 130,000.00</u> 370,000.00 unencumbered balance as of end of commissioners' meeting January 4, 2013
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Current Items for Consideration for Change Orders:

<u>Change Order Number 1</u> (\$110,550.94 – actual)	\$ 19,449.06	Credit
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<u>Electrical conduit double priced</u> (removed from electrical sub)	\$ 13,980	Credit
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<u>Balance of foundation undercut allowance</u> (removed from general contract)	\$ 13,000	Credit
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<u>Change oven manufacturers and replace fryer.</u>	\$ -2,517.09	Extra
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Prior to the bids, the school system expressly asked that a certain oven manufacturer not be used. This direction was misunderstood as the one they DID want. The federal regulations have also changed, virtually eliminating all fried food from the child nutrition program. The fryer needs to be replaced. The CO represents \$1883.50 each to switch two ovens to a better brand (+\$3727), plus credit for the fryer -\$9085, plus +\$7479 for the third oven. Tax and markup were then added.

<u>Change from sand-faced to through-body color brick</u>	\$ -7,000	Extra
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<u>Change wiring and boxes to go from large screen projectors in ceilings to wiring, cabling, and mounts for large screen TV's.</u>	\$ -1,500	Extra
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The projectors, themselves, are to be purchased by the school system and if there is a change, the TV's would be purchased by the school system as well. This change order is just for a change in wiring and mounts needed for the change in systems. This is a request from the school system.

<u>Reinstate auditorium theatrical lighting package that was omitted during value engineering</u>	\$ <u>-29,460.38</u>	Extra
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Total of potential change orders since January 4	\$ 5,951.59	Credit
Unencumbered balance as of last meeting on January 4	<u>370,000.00</u>	
<u>Total unencumbered balance if all change orders are approved</u>	375,951.59	

We recommend that all change order requests be approved.

2600 Meridian Drive / Greenville, NC 27834 / tel 252.757.0333 / fax 252.757.1330 / e-mail: jgh@hiteassoc.com

Interim County Manager Whitehurst cautioned the Board not to consider the reimbursements in the total figures since the reimbursements are not guaranteed and the last e-rate reimbursement took two years to receive. Mr. Whitehurst inquired how far along the project was at this time. Mr. Hite stated that the project is 30% complete.

Commissioner Trent asked if approval of this could wait until a future date. Mr. Hite stated that he believed it could wait, however, the engineer had told them that this point in the project would be a good time to order and install the necessary materials.

The Board and staff discussed this matter.

Commissioner Wesson introduced a **MOTION** to approve the change orders above. Commissioner Trent **SECONDED** the motion. The **MOTION PASSED** with four aye votes and one nay vote, the nay vote coming from Commissioner Harrell.

KENAN INSTITUTE ECONOMIC DEVELOPMENT COORDINATOR DENNIS ENGLISH REGARDING ECONOMIC DEVELOPMENT STRATEGY FOR BERTIE COUNTY

Mr. English gave a PowerPoint presentation on the Bertie County and Kenan Institute partnership and the information they had gathered to date. Mr. Wesson discussed the need to speak to citizens outside of the towns, as well as those in the towns. Mr. Wesson stated that the Board of Commissioners is meeting at different community locations, which would be a good opportunity for the Kenan Institute to go into the communities as well.

RECESS

The Board recessed until 1:30 PM for lunch.

RECONVENE

Chairman Perry reconvened the meeting at 1:45 PM. All commissioners were present, as well as Interim County Manager John E. Whitehurst, Assistant County Manager Misty Gibbs, County Attorney Lloyd Smith and Assistant County Attorney Jonathan Huddleston.

BOARD APPOINTMENTS

The Board and staff discussed the Board's new application process for board appointments and discussed the applications received.

ALBEMARLE REGIONAL LIBRARY BOARD

Commissioner Wesson introduced a **MOTION** to appoint Irene Walker to the Albemarle Regional Library Board per the recommendation of the Albemarle Regional Library Board. Commissioner Smith **SECONDED** the motion. The **MOTION PASSED** unanimously.

CHOANOKE AREA DEVELOPMENT ASSOCIATION (CADA) BOARD

Commissioner Smith introduced a **MOTION** to appoint Morris Rascoe to the CADA Board. Commissioner Trent **SECONDED** the motion. The **MOTION PASSED** unanimously.

ECONOMIC DEVELOPMENT COMMISSION

Commissioner Wesson introduced a **MOTION** to appoint John Davis to this commission. Commissioner Trent **SECONDED** the motion. The **MOTION PASSED** unanimously.

Commissioner Trent introduced a **MOTION** to appoint Buneva Everett to this commission. Commissioner Smith **SECONDED** the motion. The **MOTION PASSED** unanimously.

Commissioner Wesson introduced a **MOTION** to appoint Morris Rascoe to this commission. Commissioner Smith **SECONDED** the motion. The **MOTION PASSED** unanimously.

Commissioner Wesson introduced a **MOTION** to appoint Michael Neal to this commission. Commissioner Trent **SECONDED** the motion. The **MOTION PASSED** unanimously.

Commissioner Harrell introduced a **MOTION** to appoint Mary Davis to this commission. Commissioner Trent **SECONDED** the motion. The **MOTION PASSED** unanimously.

JUVENILE CRIME PREVENTION COUNCIL (JCPC) BOARD

Commissioner Wesson introduced a **MOTION** to appoint the following to the JCPC Board:

Belinda Belch
Larree S. Cherry
William Ledford
Anne Mitchell
Morris Lee Rascoe
James Heckstall

Commissioner Trent **SECONDED** the motion. The **MOTION PASSED** unanimously.

MID EAST COMMISSION BOARD

Commissioner Trent introduced a **MOTION** to appoint Irma Robbins to the Mid East Commission Board. Commissioner Wesson **SECONDED** the motion. The **MOTION PASSED** unanimously.

NURSING HOME/ADULT CARE HOME COMMUNITY ADVISORY COMMITTEE (CAC)

Commissioner Wesson stated that he did not see an application in the packet from Ms. Tammy Drake, however, Ms. Drake had approached him about remaining on the CAC. Commissioner Trent stated that Reverend Gail McNeal had approached him as well.

Commissioner Trent introduced a **MOTION** to appoint Clara Barrow, Mary Davis, and Allen Mizelle to the CAC and to appoint Ms. Tammy Drake and Reverend Gail McNeal to the CAC after they have turned in an application. Commissioner Harrell **SECONDED** the motion. The **MOTION PASSED** unanimously.

VOLUNTARY AGRICULTURAL DISTRICTS (VAD) BOARD

Commissioner Harrell introduced a **MOTION** to appoint Mr. Carl Bond, Mr. Shelby Castelloe, Mr. Herbert Tayloe and Mr. Curtis Brown to the VAD Board. Commissioner Wesson **SECONDED** the motion. The **MOTION PASSED** unanimously.

WORKFORCE DEVELOPMENT BOARD

Assistant County Manager Gibbs stated that the position on the Workforce Development Board is the organized labor representative position. Ms. Gibbs stated that no applications had been received to fill this position.

The Board asked Ms. Gibbs to check on the requirements for this position and see if there could be any substitution, since finding a representative of a union or organized labor is difficult in North Carolina.

CONSENT AGENDA

Commissioner Harrell introduced a **MOTION** to approve the tax error ledger from March 31, 2013. Commissioner Wesson **SECONDED** the motion. The **MOTION PASSED** unanimously.

DISCUSSION AGENDA

REGULATOR EASEMENT AGREEMENT

This matter was tabled at the request of County Attorney Smith.

PUBLIC ACCESS AGREEMENT

County Attorney Smith stated that this was the public access agreement for construction of the school bus drive for the new high school. County Attorney Smith stated that he had reviewed the agreement and agreed that the Board could sign it at this time if it so chose.

Commissioner Trent introduced a **MOTION** to authorize the chairman to sign the public access agreement. Commissioner Smith **SECONDED** the motion. The **MOTION PASSED** unanimously.

COUNCIL ON AGING AGREEMENT FOR TRANSPORTATION SERVICES

Aging Director Venita Thompson discussed the agreement for transportation services with CPTA. Ms. Thompson stated that the cost remains the same as last fiscal year. Ms. Thompson stated that the funding for this service comes through the Home and Community Care Block Grant, for which the County pays 10%.

Commissioner Smith introduced a **MOTION** to approve the agreement for transportation services and to authorize the chairman to sign the agreement. Commissioner Trent **SECONDED** the motion. The **MOTION PASSED** unanimously.

WATERSHED PROTECTION ORDINANCE

Interim County Manager Whitehurst stated that as part of the Martin County request to draw water from the Roanoke River, Bertie County must have a watershed protection ordinance. Mr. Whitehurst stated that Planning Director Traci White had drawn up such an ordinance before she went out on maternity leave. Mr. Whitehurst stated that only five or six acres were involved in Bertie County.

County Attorney Smith stated that the Board of Commissioners must appoint a board to govern this process should they adopt the ordinance. The Commissioners decided to have the Board of Commissioners serve as that board.

Mr. Whitehurst stated that the appendix contained recommended rules.

Commissioner Trent introduced a **MOTION** to adopt the ordinance effective June 1, 2013 and approve the Board of Commissioners as the board outlined in the ordinance. Commissioner Smith **SECONDED** the motion. The **MOTION PASSED** unanimously.

The ordinance is attached as Attachment A.

COMMISSIONERS' REPORTS

NO CHARGE FOR BERTIE COUNTY RESIDENTS DISPOSING OF CONSTRUCTION AND DEMOLITION (C&D) WASTE AT THE BERTIE LANDFILL

Commissioner Trent stated that the Board of Commissioners had received complaints from citizens regarding having to pay to dispose of C&D waste at the Bertie County Landfill. Commissioner Trent stated that the Board had negotiated with Republic Services and there would no longer be a charge for Bertie County residents to dispose of C&D waste at the landfill. Commissioner Trent stated that citizens would have to fill out a form to receive this service for free and showed the commissioners and citizens the form.

Commissioner Harrell asked if a citizen had been charged for C&D disposal in the past, could they ask for reimbursement. Commissioner Trent stated that this would be a legal question for the attorneys.

URANIUM MINING

Commissioner Wesson passed out information from the Roanoke River Basin Association regarding uranium mining. Mr. Wesson stated he attended a meeting to discuss fighting the proposal for uranium mining in Virginia. Mr. Wesson stated that the Roanoke River Basin Association has led this fight. Mr. Wesson stated that lifting the moratorium on uranium mining in Virginia and allowing this mining would affect the water quality in the Roanoke River tremendously. Mr. Wesson asked that the Board continue to fund the Roanoke River Basin Association since they have been leading the fight against uranium mining.

COUNTY MANAGER'S REPORTS

PRESENTATION OF THE PROPOSED BUDGET FOR FISCAL YEAR 2013-2014

Interim County Manager Whitehurst provided the Board with the proposed budget for fiscal year 2013-2014. Mr. Whitehurst stated that the Board would need to hold work sessions to discuss the budget and would need to set a date for a public hearing on the budget.

Commissioner Trent introduced a **MOTION** to set the public hearing on the budget for 4:00 PM on June 17, 2013. Commissioner Smith **SECONDED** the motion. The **MOTION PASSED** unanimously.

The Board asked staff to talk to each board member to assess their schedule and set dates for budget work sessions.

COUNTY ATTORNEY'S REPORTS

There were no reports.

PUBLIC COMMENTS CONTINUED

MR. JOHN DAVIS REGARDING SOLID WASTE SERVICES AND BUDGET

Mr. John Davis congratulated the Board on a good meeting. Mr. Davis thanked the Board for giving people a chance to come forward and give their opinions on changing solid waste services in Bertie County. Mr. Davis stated that he would like to see a detailed narrative of budgetary changes given to citizens before the public hearing.

CLOSED SESSION

Commissioner Harrell introduced a **MOTION** to go into closed session pursuant to NCGS §143-318.11 (a)(4) to discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body; pursuant to NCGS §143-318.11 (a)(5) to establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease; or (ii) the amount of compensation and other material terms of an employment contract or proposed employment contract; and pursuant to N.C.G.S. § 143-318.11(a)(6) to consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee. Commissioner Wesson **SECONDED** the motion. The **MOTION PASSED** unanimously.

Commissioner Wesson introduced a **MOTION** to come out of closed session. Commissioner Trent **SECONDED** the motion. The **MOTION PASSED** unanimously among the commissioners present. Commissioner Harrell left the meeting at 3:44 PM, during the closed session.

ADJOURN

Chairman Perry adjourned the meeting.

J. Wallace Perry, Chairman

Misty J. Gibbs, Clerk to the Board

ATTACHMEN T A

BERTIE COUNTY

WATERSHED PROTECTION ORDINANCE

ARTICLE 100: AUTHORITY AND GENERAL REGULATIONS

Section 101. Authority and Enactment.

The Legislature of the State of North Carolina has, in Chapter 153A, Article 6, Section 121, General Ordinance Authority; and in Chapter 143, Article 21, Watershed Protection Rules, delegated the responsibility or directed local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. The Governing Board of Bertie County does hereby ordain and enact into law the following articles as the Watershed Protection Ordinance of Bertie County.

Section 102. Jurisdiction.

The provisions of this Ordinance shall apply within the areas designated as a Public Water Supply Watershed by the N.C. Environmental Management Commission and shall be defined and established on the map entitled, "Watershed Protection Map of Bertie County, North Carolina" ("the Watershed Map"), which is adopted simultaneously herewith. The Watershed Map and all explanatory matter contained thereon accompanies and is hereby made a part of this Ordinance. This Ordinance shall be permanently kept on file in the office of the Bertie County Clerk.

Section 103. Exceptions to Applicability.

(A) Nothing contained herein shall repeal, modify, or amend any Federal or State law or regulation, or any ordinance or regulation pertaining thereto except any ordinance which these regulations specifically replace; nor shall any provision of this Ordinance amend, modify, or restrict any provisions of the Code of Ordinances of Bertie County; however, the adoption of this Ordinance shall and does amend any and all ordinances, resolutions, and regulations in effect in Bertie County at the time of the adoption of this Ordinance that may be construed to impair or reduce the effectiveness of this Ordinance or to conflict with any of its provisions.

(B) It is not intended that these regulations interfere with any easement, covenants or other agreements between parties. However, if the provisions of these regulations impose greater restrictions or higher standards for the use of a building or land, then the provisions of these regulations shall control.

(C) Existing development, as defined in this ordinance, is not subject to the requirements of this ordinance. Expansions to structures classified as existing development must meet the requirements of this ordinance, however, the built-upon area of the existing development is not required to be included in the density calculations.

(D) If a nonconforming lot of record is not contiguous to any other lot owned by the same party, then that lot of record shall not be subject to the development restrictions of this ordinance if it is developed for single-family residential purposes. Any lot or parcel created as part of a family subdivision after the effective date of these rules shall be exempt from these rules if it is developed for one single-family detached residence and if it is exempt from local subdivision regulation. Any lot or

parcel created as part of any other type of subdivision that is exempt from a local subdivision ordinance shall be subject to the land use requirements (including impervious surface requirements) of these rules, except that such a lot or parcel must meet the minimum buffer requirements to the maximum extent practicable.

Section 104. Criminal Penalties.

Any person violating any provisions of this Ordinance shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with NCGS 14-4. The maximum fine for each offense shall not exceed \$500.00. Each day that the violation continues shall constitute a separate offense.

Section 105. Remedies.

(A) If any subdivision, development and/or land use is found to be in violation of this Ordinance, the Bertie County Board of Commissioners may, in addition to all other remedies available either in law or in equity, institute a civil penalty in the amount of \$50, action or proceedings to restrain, correct, or abate the violation; to prevent occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about the premises. In addition, the N.C. Environmental Management Commission may assess civil penalties in accordance with G.S. 143-215.6(a). Each day that the violation continues shall constitute a separate offense.

(B) If the Watershed Administrator finds that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. He shall order discontinuance of the illegal use of land, buildings or structures; removal of illegal buildings or structures, or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions. If a ruling of the Watershed Administrator is questioned, the aggrieved party or parties may appeal such ruling to the Watershed Review Board.

Section 106. Severability.

Should any section or provision of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, the declaration shall not affect the validity of this Ordinance as a whole or any part thereof that is not specifically declared to be invalid or unconstitutional.

Section 107. Effective Date.

This Ordinance shall take effect and be in force on June 1, 2013.

ARTICLE 200: SUBDIVISION REGULATIONS.

Section 201. General Provisions.

No subdivision plat of land within the Public Water Supply Watershed shall be filed or recorded by the Register of Deeds until it has been approved in accordance with the provisions of this Article and in accordance with the Bertie County Subdivision Ordinance as amended. Likewise, the Clerk of Superior Court shall not order or direct the recording of a plat if the recording of such plat would be in conflict with this Article.

If the Watershed Administrator approves the application, such approval shall be indicated on both copies of the plat by the following certificate and signed by the Watershed Administrator:

Certificate of Approval for Recording

I certify that the plat shown hereon complies with the Watershed Protection Ordinance and is approved by the Watershed Review Board for recording in the Register of Deeds office.

Date

Watershed Administrator

NOTICE: This property is located within a Public Water Supply Watershed - development restrictions may apply.

Section 203. Subdivision Standards and Required Improvements.

(A) All lots shall provide adequate building space in accordance with the development standards contained in Article 300. Lots which are smaller than the minimum required for residential lots may be developed using built-upon area criteria in accordance with Article 300.

(B) For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

(C) Storm Water Drainage Facilities. The application shall be accompanied by a description of the proposed method of providing storm water drainage. The subdivider shall provide a drainage system that diverts stormwater runoff away from surface waters and incorporates best management practices to minimize water quality impacts.

(D) Erosion and Sedimentation Control. The application shall, where required, be accompanied by a written statement that a Sedimentation and Erosion Control Plan has been submitted to and approved by the N.C. Division of Energy, Mineral and Land Resources.

(E) Roads constructed in critical areas and watershed buffer areas. Where possible, roads should be located outside of critical areas and watershed buffer areas. Roads constructed within these areas shall be designed and constructed to minimize their impact on water quality.

ARTICLE 300: DEVELOPMENT REGULATIONS

Section 301. Establishment of Watershed Areas.

The purpose of this Article is to list and describe the watershed areas herein adopted.

For purposes of this ordinance the Bertie County Public Water Supply Watershed is hereby divided into the following areas, as appropriate:

- WS-IV-CA (Critical Area)
- WS-IV-PA (Protected Area)

Section 302. Watershed Areas Described.

(A) WS-IV Watershed Areas - Critical Area (WS-IV-CA). Only new development activities that

require an erosion/sedimentation control plan under State law or approved local program are required to meet the provisions of this ordinance when located in a WS-IV watershed. In order to address a moderate to high land use intensity pattern, single family residential uses are allowed at a maximum of two (2) dwelling units per acre. All other residential and non-residential development shall be allowed at a maximum of twenty-four percent (24%) built-upon area. New residuals application sites and landfills are specifically prohibited.

(1) Allowed Uses:

- (a) Agriculture subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990 and the rules and regulations of the Soil and Water Conservation Commission.
- (b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.0101-.0209).
- (c) Residential.
- (d) Non-residential development, excluding: 1) landfills and 2) sites for land application of residuals or petroleum contaminated soils.

(2) Density and Built-upon Limits:

- (a) Single Family Residential--development shall not exceed two dwelling units per acre on a project by project basis. No residential lot shall be less than one-half (1/2) acre (or 20,000 square feet excluding roadway right-of-way), except within an approved cluster development.
- (b) All Other Residential and Non-Residential--development shall not exceed twenty-four percent (24%) built-upon area on a project by project basis. For the purpose of calculating the built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

(B) WS-IV Watershed Areas - Protected Area (WS-IV-PA). Only new development activities that require an erosion/sedimentation control plan under State law or approved local government program are required to meet the provisions of this ordinance when located in a WS-IV watershed. In order to accommodate moderate to high land use intensity, single family residential uses shall develop at a maximum of two (2) dwelling units per acre (2 du/ac). All other residential and non-residential development shall be allowed at a maximum of twenty-four percent (24%) built-upon area. A maximum of three (3) dwelling units per acre (3 du/ac) or thirty-six (36%) percent built-upon area is allowed for projects without a curb and gutter street system.

(1) Uses Allowed:

- (a) Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.
- (b) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.0101-.0209).
- (c) Residential development.

(d) Non-residential development.

(2) Density and Built-upon Limits:

(a) Single Family Residential--development shall not exceed two (2) dwelling units per acre, as defined on a project by project basis. No residential lot shall be less than one-half (1/2) acre (or 20,000 square feet excluding roadway right-of-way), or one-third (1/3) acre for projects without a curb and gutter street system, except within an approved cluster development.

(b) All Other Residential and Non-Residential--development shall not exceed twenty-four percent (24%) built-upon area on a project by project basis. For projects without a curb and gutter street system, development shall not exceed thirty-six percent (36%) built-upon area on a project by project basis. For the purpose of calculating built-upon area, total project area shall include acreage in the tract on which the project is to be developed.

(c) In addition to the development allowed under paragraphs (a) and (b) above, new development and expansions to existing development may occupy up to ten percent (10%) of the protected area with up to seventy percent (70%) built-upon area on a project by project basis, when approved as a special intensity allocation (SIA). The Watershed Administrator is authorized to approve SIAs consistent with the provisions of this ordinance. Projects must, to the maximum extent practicable, minimize built-upon surface area, direct stormwater away from surface waters and incorporate Best Management Practices to minimize water quality impacts. For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

Section 303. Noncontiguous Properties as Single Contiguous Property (*this section added due to change in G.S. 143-214.5*)

Per G.S. 143-214.5, as amended, an applicant is allowed to average development density on up to two noncontiguous properties for purposes of achieving compliance with the water supply watershed development standards if all of the following circumstances exist:

- (1) The properties are within the same water supply watershed. If one of the properties is located in the critical area of the watershed, the critical area property shall not be developed beyond the applicable density requirements for its classification.
- (2) Overall project density meets applicable density or stormwater control requirements under 15A NCAC 2B .0200.
- (3) Vegetated buffers on both properties meet the minimum statewide water supply watershed protection requirements.
- (4) Built upon areas are designed and located to minimize stormwater runoff impact to the receiving waters, minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas.
- (5) Areas of concentrated density development are located in upland areas and, to the maximum extent practicable, away from surface waters and drainageways.
- (6) The property or portions of the properties that are not being developed will remain in a vegetated or natural state and will be managed by a homeowners' association as common area, conveyed to a local government as a park or greenway, or placed under a permanent

conservation or farmland preservation easement unless it can be demonstrated that the local government can ensure long-term compliance through deed restrictions and an electronic permitting mechanism. A metes and bounds description of the areas to remain vegetated and limits on use shall be recorded on the subdivision plat, in homeowners' covenants, and on individual deed and shall be irrevocable.

(7) Development permitted under density averaging and meeting applicable low density requirements shall transport stormwater runoff by vegetated conveyances to the maximum extent practicable.

(8) A special use permit or other such permit or certificate shall be obtained from the local Watershed Review Board or Board of Adjustment to ensure that both properties considered together meet the standards of the watershed ordinance and that potential owners have record of how the watershed regulations were applied to the properties."

Section 304. Cluster Development.

Cluster development is allowed in all Watershed Areas under the following conditions:

(A) Minimum lot sizes are not applicable to single family cluster development projects; however, the total number of lots shall not exceed the number of lots allowed for single family detached developments in Section 302. Density or built-upon area for the project shall not exceed that allowed for the critical area, balance of watershed or protected area, whichever applies.

(B) All built-upon area shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas.

(C) Areas of concentrated density development shall be located in upland area and away, to the maximum extent practicable, from surface waters and drainage ways.

(D) The remainder of the tract shall remain in a vegetated or natural state. The title to the open space area shall be conveyed to an incorporated homeowners association for management; to a local government for preservation as a park or open space; or to a conservation organization for preservation in a permanent easement. Where a property association is not incorporated, a maintenance agreement shall be filed with the property deeds.

(E) Cluster developments that meet the applicable low density requirements shall transport stormwater runoff by vegetated conveyances to the maximum extent practicable.

Section 305. Vegetative Setbacks Required.

(A) A minimum one hundred (100) foot vegetative setback is required for all new development activities that exceed the low density option; otherwise, a minimum thirty (30) foot vegetative setback for development activities is required along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Desirable artificial streambank or shoreline stabilization is permitted.

(B) No new development is allowed in the setback except for water dependent structures, other structures such as flag poles, signs and security lights which result in only diminutive increases in impervious area and public projects such as road crossings and greenways where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface

waters and maximize the utilization of stormwater Best Management Practices.

Section 306. Rules Governing the Interpretation of Watershed Area Boundaries.

Where uncertainty exists as to the boundaries of the watershed areas, as shown on the Watershed Map, the following rules shall apply:

(A) Where area boundaries are indicated as approximately following either street, alley, railroad or highway lines or centerlines thereof, such lines shall be construed to be said boundaries.

(B) Where area boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be said boundaries. However, a surveyed plat prepared by a registered land surveyor may be submitted to the County as evidence that one or more properties along these boundaries do not lie within the watershed area.

(C) Where the watershed area boundaries lie at a scaled distance more than twenty-five (25) feet from any parallel lot line, the location of watershed area boundaries shall be determined by use of the scale appearing on the watershed map.

(D) Where the watershed area boundaries lie at a scaled distance of twenty-five (25) feet or less from any parallel lot line, the location of watershed area boundaries shall be construed to be the lot line.

(E) Where other uncertainty exists, the Watershed Administrator shall interpret the Watershed Map as to location of such boundaries. This decision may be appealed to the Watershed Review Board.

Section 307. Application of Regulations.

(A) No building or land shall hereafter be used and no development shall take place except in conformity with the regulations herein specified for the watershed area in which it is located.

(B) No area required for the purpose of complying with the provisions of this ordinance shall be included in the area required for another building.

(C) If a use or class of use is not specifically indicated as being allowed in a watershed area, such use or class of use is prohibited.

Section 308. Existing Development.

Existing development as defined in this ordinance may be continued and maintained subject to the provisions provided herein. Expansions to structures classified as existing development must meet the requirements of this ordinance, however, the built-upon area of the existing development is not required to be included in the built-upon area calculations.

(A) Uses of Land. This category consists of uses existing at the time of adoption of this ordinance where such use of the land is not permitted to be established hereafter in the watershed area in which it is located. Such uses may be continued except as follows:

(1) When such use of land has been changed to an allowed use, it shall not thereafter revert to any prohibited use.

(2) Such use of land shall be changed only to an allowed use.

(3) When such use ceases for a period of at least one year, it shall not be reestablished.

(B) Reconstruction of Buildings or Built-upon Areas. Any existing building or built-upon area not in conformance with the restrictions of this ordinance that has been damaged or removed may be repaired and/or reconstructed, except that there are no restrictions on single family residential development, provided:

(1) Repair or reconstruction is initiated within twelve (12) months and completed within two (2) years of such damage.

(2) The total amount of space devoted to built-upon area may not be increased unless stormwater control that equals or exceeds the previous development is provided.

ARTICLE 400: PUBLIC HEALTH REGULATIONS

Section 402. Abatement.

(A) The Watershed Administrator shall monitor land use activities within the watershed areas to identify situations that may pose a threat to water quality.

(B) The Watershed Administrator shall report all findings to the Watershed Review Board. The Watershed Administrator may consult with any public agency or official and request recommendations.

(C) Where the Watershed Review Board finds a threat to water quality and the public health, safety and welfare, the Board shall institute any appropriate action or proceeding to restrain, correct or abate the condition and/or violation.

ARTICLE 500: ADMINISTRATION, ENFORCEMENT AND APPEALS

Section 501. Watershed Administrator and Duties thereof.

Bertie County shall appoint a Watershed Administrator, as delegated by the Board of Commissioners. It shall be the duty of the Watershed Administrator to administer and enforce the provisions of this ordinance as follows:

(A) The Watershed Administrator shall keep a record of all permits on file. The record shall be available for public inspection during regular office hours of the Administrator.

(B) The Watershed Administrator shall serve as clerk to the Watershed Review Board.

(C) The Watershed Administrator shall keep records of all amendments to the local Water Supply Watershed Protection Ordinance and shall provide copies of all amendments upon adoption the Division of Water Quality.

(D) The Watershed Administrator shall keep records of the jurisdiction's use of the provision that a maximum of ten percent (10%) of the protected area of WS-IV watersheds may be developed with new development at a maximum of seventy percent (70%) built-upon surface area. Records for each watershed shall include the total acres of non-critical watershed area, total acres eligible to be developed under this option, total acres approved for this development option, and individual records for each

project with the following information: location, number of developed acres, type of land use_and stormwater management plan (if applicable).

(E) The Watershed Administrator is granted the authority to administer and enforce the provisions of this Ordinance, exercising in the fulfillment of his responsibility the full police power of the County. The Watershed Administrator, or his duly authorized representative, may enter any building, structure, or premises, as provided by law, to perform any duty imposed upon him by this Ordinance.

(F) The Watershed Administrator shall keep a record of variances to the local Water Supply Watershed Protection Ordinance. This record shall be submitted for each calendar year to the Division of Water Quality on or before January 1st of the following year and shall provide a description of each project receiving a variance and the reasons for granting the variance.

Section 502. Appeal from the Watershed Administrator.

Any order, requirement, decision or determination made by the Watershed Administrator may be appealed to and decided by the Watershed Review Board.

An appeal from a decision of the Watershed Administrator must be submitted to the Watershed Review Board within thirty (30) days from the date the order, interpretation, decision or determination is made. All appeals must be made in writing stating the reasons for appeal. Following submission of an appeal, the Watershed Administrator shall transmit to the Board all papers constituting the record upon which the action appealed from was taken.

An appeal stays all proceedings in furtherance of the action appealed, unless the officer from whom the appeal is taken certifies to the Board after the notice of appeal has been filed with him, that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application of notice of the officer from whom the appeal is taken and upon due cause shown.

The Board shall fix a reasonable time for hearing the appeal and give notice thereof to the parties and shall decide the same within a reasonable time. At the hearing, any party may appear in person, by agent or by attorney.

Section 503. Changes and Amendments to the Watershed Protection Ordinance.

(A) The Bertie County Board of Commissioners may, on its own motion or on petition, after public notice and hearing, amend, supplement, change or modify the watershed regulations and restrictions as described herein.

(B) No action shall be taken until the proposal has been submitted to the Watershed Review Board for review and recommendations. If no recommendation has been received from the Watershed Review Board within forty-five (45) days after submission of the proposal to the Chairman of the Watershed Review Board, the Bertie County Board of Commissioners may proceed as though a favorable report had been received.

(C) Under no circumstances shall the Bertie County Board of Commissioners adopt such amendments, supplements or changes that would cause this ordinance to violate the watershed protection rules as adopted by the N.C. Environmental Management Commission. All amendments must be filed with the N.C. Division of Water Quality.

Section 504. Establishment of Watershed Review Board.

There shall be and hereby created the Watershed Review Board appointed by the Bertie County Board of Commissioners.

Section 505. Powers and Duties of the Watershed Review Board.

(A) Administrative Review. The Watershed Review Board shall hear and decide appeals from any decision or determination made by the Watershed Administrator in the enforcement of this ordinance.

(B) Variances. The Watershed Review Board shall have the power to authorize, in specific cases, minor variances from the terms of this Ordinance as will not be contrary to the public interests where, owing to special conditions, a literal enforcement of this Ordinance will result in practical difficulties or unnecessary hardship, so that the spirit of this Ordinance shall be observed, public safety and welfare secured, and substantial justice done. In addition, the county shall notify and allow a reasonable comment period for all other local governments having jurisdiction in the designated watershed where the variance is being considered.

(1) Applications for a variance shall be made on the proper form obtainable from the Watershed Administrator and shall include the following information:

(a) A site plan, drawn to a scale of at least one (1) inch to forty (40) feet, indicating the property lines of the parcel upon which the use is proposed; any existing or proposed structures; parking areas and other built-upon areas; surface water drainage. The site plan shall be neatly drawn and indicate north point, name and address of person who prepared the plan, date of the original drawing, and an accurate record of any later revisions.

(b) A complete and detailed description of the proposed variance, together with any other pertinent information which the applicant feels would be helpful to the Watershed Review Board in considering the application.

(c) The Watershed Administrator shall notify in writing each local government having jurisdiction in the watershed and the entity using the water supply for consumption. Such notice shall include a description of the variance being requested. Local governments receiving notice of the variance request may submit comments to the Watershed Administrator prior to a decision by the Watershed Review Board. Such comments shall become a part of the record of proceedings of the Watershed Review Board.

(2) Before the Watershed Review Board may grant a variance, it shall make the following three findings, which shall be recorded in the permanent record of the case, and shall include the factual reasons on which they are based:

(a) There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance. In order to determine that there are practical difficulties or unnecessary hardships, the Board must find that the five following conditions exist:

(1) If he complies with the provisions of the Ordinance, the applicant can secure no reasonable return from, nor make reasonable use of, his property. Merely proving that the variance would permit a greater profit to be made from the property will not be considered adequate to justify the Board in granting a variance. Moreover, the Board shall consider whether the variance is the minimum possible deviation from the terms of the Ordinance that will make possible the reasonable use of his property.

(2) The hardship results from the application of the Ordinance to the property rather than from other factors such as deed restrictions or other hardship.

(3) The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, which is different from that of neighboring property.

(4) The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates the Ordinance, or who purchases the property after the effective date of the Ordinance, and then comes to the Board for relief.

(5) The hardship is peculiar to the applicant's property, rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a variance would be a special privilege denied to others, and would not promote equal justice.

(b) The variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.

(c) In the granting of the variance, the public safety and welfare have been assured and substantial justice has been done. The Board shall not grant a variance if it finds that doing so would in any respect impair the public health, safety, or general welfare.

(3) In granting the variance, the Board may attach thereto such conditions regarding the location, character, and other features of the proposed building, structure, or use as it may deem advisable in furtherance of the purpose of this ordinance. If a variance for the construction, alteration or use of property is granted, such construction, alteration or use shall be in accordance with the approved site plan.

(4) The Watershed Review Board shall refuse to hear an appeal or an application for a variance previously denied if it finds that there have been no substantial changes in conditions or circumstances bearing on the appeal or application.

(5) A variance issued in accordance with this Section shall be considered a Watershed Protection Permit and shall expire if a Building Permit or Watershed Occupancy Permit for such use is not obtained by the applicant within six (6) months from the date of the decision.

(6) If the application calls for the granting of a major variance, and if the Watershed Review Board decides in favor of granting the variance, the Board shall prepare a preliminary record of the hearing with all deliberate speed. The preliminary record of the hearing shall include:

- (a) The variance application;
- (b) The hearing notices;
- (c) The evidence presented;
- (d) Motions, offers of proof, objections to evidence, and rulings on them;
- (e) Proposed findings and exceptions;
- (f) The proposed decision, including all conditions proposed to be added to the permit.

The preliminary record shall be sent to the Environmental Management Commission for its review as follows:

(a) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that (1) the property owner can secure no reasonable return from, nor make any practical use of the property unless the proposed variance is granted, and (2) the variance, if granted, will not result in a serious threat to the water supply, then the Commission shall approve the variance as proposed or approve the proposed variance with conditions and stipulations. The Commission shall prepare a Commission decision and send it to the Watershed Review Board. If the Commission approves the variance as proposed, the Board shall prepare a final decision granting the proposed variance. If the Commission approves the variance with conditions and stipulations, the Board shall prepare a final decision, including such conditions and stipulations, granting the proposed variance.

(b) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that (1) the property owner can secure a reasonable return from or make a practical use of the property without the variance or (2) the variance, if granted, will result in a serious threat to the water supply, then the Commission shall deny approval of the variance as proposed. The Commission shall prepare a Commission decision and send it to the Watershed Review Board. The Board shall prepare a final decision denying the variance as proposed.

(C) Subdivision approval. See Article 200.

(D) Public Health. See Article 400.

(E) Approval of all development greater than the low density option. See Appendix C.

Section 506. Appeals from the Watershed Review Board.

Appeals from the Watershed Review Board must be filed with the Superior Court within 30 days from the date of the decision. Decisions by the Superior Court will be in the manner of certiorari.

ARTICLE 600: DEFINITIONS

Section 601. General Definitions.

Agricultural Use. The use of waters for stock watering, irrigation, and other farm purposes.

Best Management Practices (BMP). A structural or nonstructural management-based practice used

singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.

Buffer. An area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

Building. Any structure having a roof supported by columns or by walls, and intended for shelter, housing or enclosure of persons, animals or property. The connection of two buildings by means of an open porch, breezeway, passageway, carport or other such open structure, with or without a roof, shall not be deemed to make them one building.

Built-upon area. Built-upon areas shall include that portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel areas (e.g. roads, parking lots, paths), recreation facilities (e.g. tennis courts), etc. (Note: Wooden slatted decks and the water area of a swimming pool are considered pervious.)

Cluster Development. Cluster development means the grouping of buildings in order to conserve land resources and provide for innovation in the design of the project including minimizing stormwater runoff impacts. This term includes nonresidential development as well as single-family residential and multi-family developments. For the purpose of this ordinance, planned unit developments and mixed use development are considered as cluster development.

Critical Area. The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as extending either one-half mile from the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed (whichever comes first); or one-half mile upstream from the intake located directly in the stream or river (run-of-the-river), or the ridge line of the watershed (whichever comes first). Local governments may extend the critical area as needed. Major landmarks such as highways or property lines may be used to delineate the outer boundary of the critical area if these landmarks are immediately adjacent to the appropriate outer boundary of one-half mile.

Customary Home Occupations. Any use conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof. Provided further that no mechanical equipment is installed or used except as is normally used for domestic or professional purposes, and that not over twenty-five percent (25%) of the total floor space of any structure is used for the occupation. No home occupation shall be conducted in any accessory building except for the storage and service of a vehicle that is driven off site, such as a service repair truck, delivery truck, etc.

Development. Any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

Dwelling Unit. A building, or portion thereof, providing complete and permanent living facilities for one family.

Existing Development. Those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of this ordinance based on at least one of the following criteria:

- (1) substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project, or
- (2) having an outstanding valid building permit as authorized by the General Statutes (G.S. 153A-344.1 and G.S. 160A-385.1), or
- (3) having an approved site specific or phased development plan as authorized by the General Statutes (G.S. 153A-344.1 and G.S. 160A-385.1).

Existing Lot (Lot of Record). A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds prior to the adoption of this ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this ordinance.

Family. One or more persons occupying a single dwelling unit, provided that unless all members are related by blood or marriage or adoption, no such family shall contain over five persons, but further provided that domestic servants employed or living on the premises may be housed on the premises without being counted as a family or families.

Family Subdivision. Family subdivision means a division of a tract of land: (a) to convey the resulting parcels, with the exception of parcels retained by the grantor, to a relative or relatives as a gift or for nominal consideration, but only if no more than one parcel is conveyed by the grantor from the tract to any one relative; or (b) to divide land from a common ancestor among tenants in common, all of whom inherited by intestacy or by will.

Industrial Development. Any non-residential development that requires an NPDES permit for an industrial discharge and/or requires the use or storage of any hazardous material for the purpose of manufacturing, assembling, finishing, cleaning or developing any product or commodity.

Landfill. A facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A Article 9 of the N.C. General Statutes. For the purpose of this ordinance this term does not include composting facilities.

Lot. A parcel of land occupied or capable of being occupied by a building or group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to the same.

Major Variance. A variance from the minimum statewide watershed protection rules that results in any one or more of the following:

- (1) the relaxation, by a factor greater than ten (10) percent, of any management requirement under the low density option;
- (2) the relaxation, by a factor greater than five (5) percent, of any buffer, density or built-upon area requirement under the high density option;
- (3) any variation in the design, maintenance or operation requirements of a wet detention pond or other approved stormwater management system.

Minor Variance. A variance from the minimum statewide watershed protection rules that results in a relaxation, by a factor of up to five (5) percent of any buffer, density or built-upon area requirement under the high density option; or that results in a relaxation, by a factor of up to ten (10) percent, of any management requirement under the low density option.

Nonconforming Lot of Record. A lot described by a plat or a deed that was recorded prior to the effective date of local watershed protection regulations (or their amendments) that does not meet the minimum lot size or other development requirements of the statewide watershed protection rules.

Non-residential Development. All development other than residential development, agriculture and silviculture.

Plat. A map or plan of a parcel of land which is to be, or has been subdivided.

Protected Area. The area adjoining and upstream of the critical area of WS-IV watersheds. The boundaries of the protected area are defined as within five miles of and draining to the normal pool elevation of the reservoir or to the ridgeline of the watershed; or within 10 miles upstream and draining to the intake located directly in the stream or river or to the ridgeline of the watershed.

Residential Development. Buildings for residence such as attached and detached single-family dwellings, apartment complexes, condominiums, townhouses, cottages, etc. and their associated outbuildings such as garages, storage buildings, gazebos, etc. and customary home occupations.

Residuals. Any solid or semi-solid waste generated from a wastewater treatment plant, water treatment plant or air pollution control facility permitted under the authority of the Environmental Management Commission.

Single Family Residential. Any development where: 1) no building contains more than one dwelling unit, 2) every dwelling unit is on a separate lot, and 3) where no lot contains more than one dwelling unit.

Street (Road). A right-of-way for vehicular traffic which affords the principal means of access to abutting properties.

Structure. Anything constructed or erected, including but not limited to buildings, which requires location on the land or attachment to something having permanent location on the land.

Subdivider. Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

Subdivision. All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all division of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations authorized by this ordinance:

- (1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of this ordinance;
- (2) The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved;
- (3) The public acquisition by purchase of strips of land for the widening or opening of streets;
- (4) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and

where the resultant lots are equal to or exceed the standards of the this ordinance;

- (5) The division of a tract into plots or lots used as a cemetery.

Toxic Substance. Any substance or combination of substances (including disease causing agents), which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth) or physical deformities in such organisms or their off spring or other adverse health effects.

Variance. A permission to develop or use property granted by the Watershed Review Board relaxing or waiving a water supply watershed management requirement adopted by the Environmental Management Commission that is incorporated into this ordinance.

Water Dependent Structure. Any structure for which the use requires access to or proximity to or citing within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water dependent structures.

Watershed. The entire land area contributing surface drainage to a specific point (e.g. the water supply intake.)

Watershed Administrator. An official or designated person of Bertie County responsible for administration and enforcement of this ordinance.

Section 602. Word Interpretation.

For the purpose of this ordinance, certain words shall be interpreted as follows:

Words in the present tense include the future tense.

Words used in the singular number include the plural, and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.

The word "person" includes a firm, association, corporation, trust, and company as well as an individual.

The word "structure" shall include the word "building."

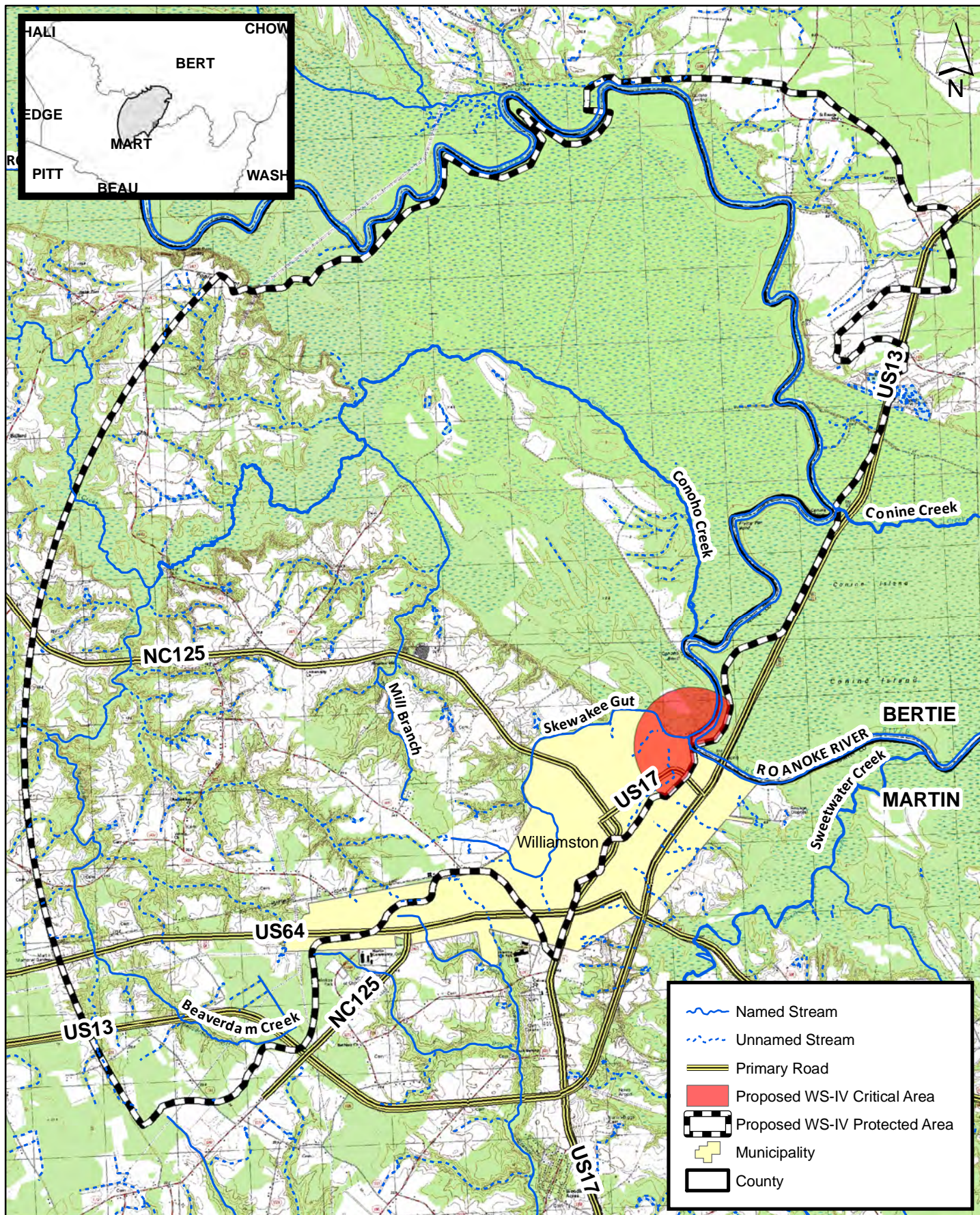
The word "lot" shall include the words, "plot," "parcel," or "tract."

The word "shall" is always mandatory and not merely directory.

The word "will" is always mandatory and not merely directory.

Roanoke River Proposed WS-IV Water Supply Watershed

Bertie and Martin Counties, Roanoke River Basin, North Carolina



Map Source: NCDWQ, Published 21 June 2011
 Hydrography Source: NCDWQ, Published 21 May 2010

This map is only as good as the data available when it was printed and is not intended to replace any rule, regulation or classification schedule.
 North Carolina Division of Water Quality | <http://h2o.enr.state.nc.us> | 512 N. Salisbury St., Raleigh, NC 27604 (919)807-6300

