

**Windsor, North Carolina  
June 3, 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**

**DR. KAREN RAY REGARDING SOLID WASTE DISPOSAL**

Dr. Karen Ray discussed the convenience centers and her thoughts on recycling. Dr. Ray stated that she felt it would be tax redistribution and was concerned how the County would pay for the service. Dr. Ray stated that, on a whole, she felt the Board does a good job.

**APPOINTMENTS**

**MR. DUTCH REMKES OF RIAL CORPORTATION REGARDING SEWER BILLING FOR SCOTCH HALL PRESERVE**

Mr. Dutch Remkes of RIAL Corporation asked that the Bertie County Water Department collect the sewer user fees for Scotch Hall Preserve. He suggested that this could be done by placing the sewage usage fee on the monthly water bill for Scotch Hall Preserve residents. Mr. Remkes stated that this fee could be calculated using the same fee schedule for water. Mr. Remkes proposed that Bertie County deduct a 5% administration fee from the total sewer fees collected over an entire fiscal year and then send a check to Scotch Hall Preserve at the end of every fiscal year for the remainder of the fees collected.

Commissioner Trent clarified that this is a private gated community with private sewer. Mr. Trent expressed concerns over liability if Bertie County were to take over this billing and liability should RIAL Corporation dissolve in the future.

The Board, Mr. Remkes and staff discussed the concerns regarding this billing. County Attorney, Lloyd Smith, stated that the County would have no liability unless there was faulty billing. However, if the County was involved, there was always the perception of responsibility, if not actual responsibility.

Commissioner Harrell stated that he would have to abstain from voting on this matter since a company he owns does work for the Scotch Hall Preserve sewage facility.

Commissioner Trent questioned the administration fee and the life expectancy of the facility.

Commissioner Trent introduced a **MOTION** to deny taking on this billing at this time. The **MOTION DIED** without a second.

The Board continued to discuss this matter and concerns regarding liability to Bertie County. Commissioner Wesson made a motion stating that if the County Attorney could draft a contract insuring the County would have no liability and imposing no financial burden upon the County, then the County Water System should collect the fees. The motion died without a second.

The Chairman tabled this matter until a future meeting.

**EMERGENCY MANAGEMENT COORDINATOR MITCH COOPER REGARDING MEDICAL DIRECTOR FOR BERTIE COUNTY**

Emergency Management Coordinator Mitch Cooper discussed the current contract with Dr. Michael Lowry for medical director services. Mr. Cooper stated that Dr. Lowry does not currently work in the county. Mr. Cooper stated that, with the upcoming changes in emergency services in Bertie County, he felt that it would be beneficial to have a medical director that works in the County. Mr. Cooper stated that he had met with Vidant Bertie Memorial Hospital about the possibility of a doctor there providing these services and the hospital and one of the doctors has agreed. Mr. Cooper stated that the current price for this service is \$16,000.00 per year and the proposed price from the doctor at Bertie Memorial is \$25,000.00. Interim County Manager Whitehurst stated that they are negotiating that price at this time.

The Board tabled this matter until negotiations had been completed.

**AGING DIRECTOR VENITA THOMPSON REGARDING NUTRITION PROGRAM BIDS, CONTRACT WITH INTERIM HEALTHCARE AND USE OF THE GYM AT THE SENIOR CENTER**

Aging Director Venita Thompson stated that she had received two bids for the congregate nutrition program. Ms. Thompson stated that Trumps Restaurant had submitted a bid of \$4.90 per unit of service and Granville Caterers had submitted a bid of \$4.80 per unit of service. Ms. Thompson briefly discussed this program.

Commissioner Harrell introduced a **MOTION** to award the congregate nutrition bid to Granville Caterers. Commissioner Wesson **SECONDED** the motion. The **MOTION PASSED** unanimously.

Ms. Thompson presented the proposed contract with Interim Healthcare. Ms. Thompson stated that the price had increased by \$0.25 per hour over the last fiscal year. County Attorney Smith discussed several issues he saw in the current contract. The board asked for details on why there is a price increase in the contract and that Ms. Thompson work with the County Attorney to answer his questions and concerns about the contract.

The Board tabled this matter until a future meeting.

Chairman Perry stated that he had received calls from citizens stating that the Council on Aging gym is being used for church services. Chairman Perry stated that, according to the callers, this was advertised in the local newspaper. Ms. Thompson confirmed that the gym was reserved for a church group to hold services that weekend and stated that church groups had used the facility for church services in the past.

County Attorney Smith pointed out his concern about religious organizations using the facility for religious services under the United States Constitution, especially considering recent lawsuits regarding government agencies and religion.

The Board inquired about the upcoming use of the facility. Ms. Thompson described the verbal agreement to allow the church to use the facility the contract for use of the facility. Ms. Thompson stated that it was her understanding that this group wanted to use the facility on a temporary basis. Ms. Thompson was not sure if a contract had already been executed for use of the facility, but did state that the Council on Aging had verbally agreed to reserve the space for this group.

The Board and staff continued to discuss the usage policy for the Council on Aging gym.

Commissioner Trent introduced a **MOTION** to allow the church group to use the facility that weekend, but have the Aging Director work with the County Attorney to review and update the usage policy for that facility for any future rentals. Commissioner Wesson **SECONDED** the motion. The

**MOTION PASSED** with 4 aye votes and 1 nay vote, the nay vote coming from Commissioner Harrell who said he could not vote aye until he knew if a contract had been executed.

### **BOARD APPOINTMENTS**

Assistant County Manager Gibbs discussed the applications received for each board.

#### **JCPC**

Commissioner Wesson introduced a **MOTION** to appoint Ms. Lisa Mizelle to the JCPC Board. Commissioner Smith **SECONDED** the motion. The **MOTION PASSED** unanimously.

#### **EMS ADVISORY BOARD**

Discussion on this matter was tabled.

#### **ABC BOARD**

Commissioner Smith introduced a **MOTION** to appoint Mr. Miles Davis to the ABC Board. Commissioner Harrell **SECONDED** the motion. The **MOTION PASSED** unanimously.

#### **JURY COMMISSION**

Commissioner Wesson introduced a **MOTION** to appoint Mr. Herman Davidson to the Jury Commission. Commissioner Harrell **SECONDED** the motion. The **MOTION PASSED** unanimously.

#### **PLANNING BOARD**

Commissioner Harrell introduced a **MOTION** to appoint Mr. Carl Bond to the District V seat on the Planning Board and Mr. Rodney Mumma to the At-Large seat. Commissioner Wesson **SECONDED** the motion. The **MOTION PASSED** unanimously.

#### **SOCIAL SERVICES BOARD**

Social Services Director Linda Speller spoke on behalf of Mr. Curt Kedley who is recommended by the Social Services Board to fill this position.

Commissioner Smith introduced a **MOTION** to appoint Mr. Curt Kedley to the Social Services Board. Commissioner Trent **SECONDED** the motion. The **MOTION PASSED** unanimously.

#### **WORKFORCE DEVELOPMENT BOARD**

Commissioner Smith introduced a **MOTION** to appoint Mr. Michael Freeman to the Workforce Development Board. Commissioner Wesson **SECONDED** the motion. The **MOTION PASSED** unanimously.

### **IMMEDIATE OPENINGS AND UPCOMING APPOINTMENTS**

Clerk to the Board Misty Gibbs reminded the Board of immediate openings and upcoming appointments.

### **CONSENT AGENDA**

Commissioner Harrell introduced a **MOTION** to approve the minutes from May 14&15, 2013 and May 20, 2013 with changes by the County Attorney. Commissioner Smith **SECONDED** the motion. The **MOTION PASSED** unanimously.

Commissioner Smith introduced a **MOTION** to approve the tax error ledger from April 30, 2013. Commissioner Wesson **SECONDED** the motion. The **MOTION PASSED** unanimously.

Commissioner Harrell introduced a **MOTION** to approve budget amendment #13-02 as recommended by the Interim County Manager. Commissioner Wesson **SECONDED** the motion. The **MOTION PASSED** unanimously.

## **DISCUSSION AGENDA**

### **SCHEDULE BUDGET WORK SESSION**

The Board asked that Assistant County Manager Gibbs contact each of them individually to work out the best dates to hold a budget work session.

### **COUNTY MANAGEMENT AND TAX ADMINISTRATION RECORDS RETENTION AND DISPOSITION SCHEDULES**

Assistant County Manager Gibbs discussed the most recent records retention and disposition schedules release by the Division of Archives and Records of the North Carolina Department of Cultural Resources. Ms. Gibbs stated that the most recent schedule handles documents differently in that in the past several documents could be destroyed “when administrative value ends” with no requirement to define the length of time that is and now counties must define the length of time for which documents can be destroyed when the schedule states to destroy “when administrative value ends.” Ms. Gibbs stated that the Division of Archives and Records allows that County’s can pass the most recent schedule now, as long as they agree to define the length of time to keep these records at some point.

The Board discussed this matter. The Board asked that staff bring the schedule back before it after the length of time for those documents has been defined in the document.

### **COMMISSIONERS’ REPORTS**

Commissioner Trent stated that the Board had requested information from the Parks and Recreation Director two weeks ago, but had not heard back from her. Commissioner Trent stated that the Board needed to receive the information and discuss this matter.

Commissioner Smith stated that he had attended the Emergency Management Public Officials Conference last week and updated the Board and citizens on that conference.

### **PARKS AND RECREATION DISCUSSION**

Commissioner Wesson expressed his concern that he had continued to ride by the Recreation Complex and see the chains locked. Commissioner Wesson stated that he had routinely received complaints from citizens that they cannot access the park. The Board discussed the need to have this park open to the public. Sheriff John Holley stated that he had heard several complaints in the community regarding this matter as well. The Board directed the Interim County Manager to contact Parks and Recreation Director Donna Mizelle and discuss this matter.

Commissioner Harrell stated that he had recently looked through the 2003 recreation study and asked that the Clerk to the Board get copies of this study to the other board members.

Chairman Perry discussed the need for publicity regarding the recreation center hours and the recreation opportunities available to citizens. The Board discussed recreation. Chairman Perry asked Sheriff John Holley if it might be possible to have a deputy lock the gate at the site around 8 PM each night. Sheriff Holley stated that he could see no problem with that.

### **COUNTY MANAGER’S REPORTS**

#### **SOLID WASTE PROPOSALS AND CURRENT CONTRACT**

Interim County Manager Whitehurst stated that he had sent each Board member a copy of the rough draft of the solid waste request for proposals. Mr. Whitehurst asked the Board to thoroughly review this draft and contact him with any input or questions.

Mr. Whitehurst stated that the Board’s current contract with Waste Industries for operation of the convenience centers would expire June 30, 2013. Mr. Whitehurst presented the Board with a proposed agreement from Waste Industries to extend this contract for an additional six months.

The Board discussed this proposed contract amendment.

Commissioner Wesson introduced a **MOTION** to approve the amendment. Commissioner Trent **SECONDED** the motion. The **MOTION PASSED** unanimously.

### **LEWISTON-WOODVILLE EMS**

Interim County Manager Whitehurst discussed a letter received from Lewiston-Woodville EMS regarding \$5000.00 that must be paid for workers compensation insurance for EMS. Mr. Whitehurst stated that Lewiston-Woodville EMS representatives claim that they would be unable to continue service for Colerain EMS without additional funds for workers compensation insurance.

The Board discussed this matter.

Commissioner Smith introduced a **MOTION** to approve \$5000.00 to Lewiston-Woodville EMS for workers compensation insurance for Colerain EMS. Commissioner Trent **SECONDED** the motion. The **MOTION PASSED** unanimously.

### **COUNTY ATTORNEY'S REPORTS**

There were no reports.

### **PUBLIC COMMENTS CONTINUED**

### **DR. KAREN RAY REGARDING BOARD**

Dr. Karen Ray complimented the Board stated that they are a very impressive group.

### **APPOINTMENTS CONTINUED**

### **BOARD OF EQUALIZATION AND REVIEW**

Commissioner Harrell introduced a **MOTION** to convene as the Board of Equalization and Review. Commissioner Wesson **SECONDED** the motion. The **MOTION PASSED** unanimously.

### **PERDUE FARMS, INC. APPEAL**

Chairman Perry stated that Commissioner Harrell is an employee of Perdue Farms, Inc. and thus has requested to recuse himself from the discussion regarding this matter. The board agreed.

**Commissioner Harrell left the meeting at 11:57 AM.**

Deputy Tax Assessor Jodie Rhea was present for this discussion.

Mr. Todd Barron of Barron Corporate Tax Solutions presented the following information for Perdue Farms, Inc.:

## Perdue Farms, Inc.

3539 Governors Road, Lewiston NC  
(Parcel 5827-85-1865, 5827-42-7362, 5827-15-2090)

### I. Introductions

### II. Property Description

- A. Poultry processing facility
- B. Approximately 324.14 acres and 380,000sf of building area
- C. Property built in 1976 with additions in 1982 and 1991
- D. January 1, 2012 Assessment = \$11,303,998 (\$29.75/sf), with land at \$815,618

### III. Valuation Evidence

#### A. Comparable Sales Analysis as of 1/1/12

- 1. Considered sales & offerings of large industrial properties located in NC/VA region and poultry facilities in area. Used seven total properties with unadjusted price range of \$1.89/sf - \$21.34/sf (page 4)
- 2. Adjusted sale & list prices to account for differences in properties with adjusted range of \$2.39/sf - \$21.77/sf with an average of \$9.32/sf and median of 12.08/sf (page 4-5)
- 3. Concluded conservative value at \$20.00/sf, or \$7,600,000 and added excess land (approx. 289.14 acres) at Bertie County's value of \$471,170
- 4. Overall value = **\$8,071,000**

#### B. Income Capitalization Analysis as of 1/1/12

- 1. Considered lease offerings of large industrial properties located in NC/VA region. Used six total properties with unadjusted rent range of \$2.25/sf - \$6.00/sf (page 6)
- 2. Adjusted lease rates to account for differences in properties with adjusted rent range of \$2.07/sf - \$2.63/sf and used \$2.50/sf on a triple net basis (page 6-7)
- 3. Vacancy at 10% and expenses of around \$100,000 annually
- 4. Capitalization rate of 11.00% based on RERC regional rates and locally derived rates
- 5. Concluded value at \$6,865,909 and then added excess land of \$471,170
- 6. Overall value = **\$7,337,000**

#### C. Additional Poultry Information – Industry, Emporia & Dothan

### IV. Taxpayer Request

- A. Overall Value of **\$7,700,000**, \$20.26/sf
- B. Land value at \$815,618, per assessor, improvements at \$6,884,382

## Poultry Industry Information & Plant Sales

### Sanderson Farms – State of Industry Quote

"Our results for the first quarter of fiscal 2013 reflect improving, but still challenging, conditions for our industry," said Joe F. Sanderson, Jr., chairman and chief executive officer of Sanderson Farms, Inc. "While we experienced higher poultry market prices than the same period a year ago, our grain costs were also higher. Retail demand for chicken has remained steady, but we continue to see weak food service demand. We believe food service demand will remain under pressure until the national employment environment improves. While grain prices have retreated from the highs they set last August, we experienced higher feed costs during the first quarter, and these higher costs continue to affect our profitability." The Company's average feed cost per pound of poultry products processed increased 12.1% compared with the first quarter of fiscal 2012, and prices paid for corn and soybean meal, the Company's primary feed ingredients, increased 16.2% and 46.1%, respectively, compared with the first quarter of fiscal 2012.

Canceled construction of plant in Nash County in March of 2013

### Perdue Farms – Property Sales

Emporia, VA – 239,000sf poultry processing plant built in 1964

- Listed originally for \$4,000,000 (\$16.74/sf) in 2008
- Listing reduced to \$2,000,000 (\$8.37/sf) in 2011
- Contract fell through in 2012 for \$1,125,000 (4.71/sf)

Dothan, AL – 136,672sf poultry processing plant built in 1970's

- Valued at \$3,371,100 (\$24.66/sf)
- Entire plant, including machinery & equipment, sold for less than \$10 million

County Attorney Smith lead a discussion of the relevant law for the Board to consider as it set as the Board of Equilization and Review and reviewed the information from the County and from the Appellant, Perdue Farms, Inc.

Mr. Smith handed out copies of cases which he had highlighted and which he stated contained some of the relevant rules to be used in making decisions.

Mr. Smith pointed out that under the 1981 North Carolina Supreme Court decision In the Appeal of McElwee, 304 N.C. 68, 283 S.E. 2d 115 (1981) the Supreme Court recognized that there was a rebuttable presumption of correctness in tax assessment.

He pointed to the Board to said decision which said:

"in order for the taxpayer to rebut the presumption [of correctness] he must produce "competent, material and substantial" evidence that tends to show that: (1) Either the County tax supervisor used an arbitrary method of valuation; or (2) the county tax Supervisor used an illegal method of evaluation; And (3) the assessment substantially Exceeded the true value in money of the property. [Citation omitted.] Simply stated, It is not enough for the taxpayer to show that the means adopted by the tax supervisor were wrong, he must also show that the result arrived at is substantially greater than the true value in money of the property assessed, i.e., that the valuation was unreasonably high. In Re McElwee, 75, 120.

Mr. Smith also referred the Board to In The Matter Of: Parson, 123 N.C. App. 32, 472 S.E. 2d 182 (1996) which followed the decision in In Re McElwee. He also pointed out that said case also stands for the proposition that "the fair market value of real property for tax purposes is the same as that for condemnation purposes" and that "in either case, the fair market value is the highest market price [property] would bring for its most advantageous uses [at the time of taking] and in the foreseeable future." In Re Parsons, 42, 189.

Finally, Mr. Smith called the Board's attention to the holding of the North Carolina Supreme Court in State of North Carolina v. Johnson, 282 N.C. 1, 191 S.E. 2d 441 (1972) in which the Supreme Court adopted:

“The majority rule that evidence as to the price paid by the same or another condemning agency for other real property which, although subject to condemnation, was sold by the owner without the intervention of eminent domain proceedings, is rendered inadmissible to prove the value of the real property involved merely because the property was sold to a prospective Condemor.” State of North Carolina v. Johnson, 22, 656.

Mr. Smith also pointed the Board to N.C.G.S. §105-283 “Uniform Appraisal standard” and N.C.G.S. §105 Article 21 “Review And Appeals Of Listings And Valuations” and reviewed the various legal requirements of the Board of Commissioners sitting as the Board of Equalization And Review.

After the Board received this information it adjourned until 1:30 PM.

### **RECESS**

The Board recessed for lunch until 1:30 PM.

### **RECONVENE**

The Bertie County Board of Commissioners reconvened at 1:30 PM in the Commissioners Room with the following members present or absent:

Present:	J. Wallace Perry, Chairman Charles L. Smith, Vice-Chairman
	John Trent Ronald “Ron” Wesson
Absent:	Rick Harrell
Staff Present:	Interim County Manager John E. Whitehurst Assistant County Manager Misty Gibbs County Attorney Lloyd Smith

### **PERDUE FARMS, INC. APPEAL CONTINUED**

Deputy Tax Assessor Jodie Rhea discussed the Perdue Farms appeal.

The Board, Mr. Barron, Mr. Rhea and staff discussed this matter.

Mr. Rhea informed the Board that the 2004 valuation for this property was \$11,182,095.00 and the 2012 valuation is \$11,303,998.00, only an increase of \$121,903.00. Mr. Rhea stated that Perdue Farms, Inc. would like the valuation reduced to \$7,700,000.00.

Commissioner Wesson stated that, taking into consideration the presentations and the 2004 valuation compared to the 2012 valuation, he introduced a **MOTION** to keep the property valuation at \$11,303,998.00. Commissioner Trent **SECONDED** the motion. The **MOTION PASSED** unanimously.

### **BAL GRA**

Mr. Rhea asked that the Board continue this matter.

Commissioner Smith introduced a **MOTION** to continue this matter. Commissioner Trent **SECONDED** the motion. The **MOTION PASSED** unanimously.

### **ADJOURN THE BOARD OF EQUALIZATION AND REVIEW**

Mr. Rhea stated that a timely appeal had been made by Bal Gra, therefore the Board of Commissioners could adjourn the Board of Equalization and Review and still hear the Bal Gra matter at a later date.



Commissioner Wesson introduced a **MOTION** to adjourn the Board of Equalization and Review. Commissioner Trent **SECONDED** the motion. The **MOTION PASSED** unanimously.

### **CLOSED SESSION**

Commissioner Smith 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 Smith introduced a **MOTION** to come out of closed session. Commissioner Trent **SECONDED** the motion. The **MOTION PASSED** unanimously.

### **ADJOURN**

Chairman Perry adjourned the meeting.

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J. Wallace Perry, Chairman

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Misty J. Gibbs, Clerk to the Board