

**GATES COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING MINUTES
AUGUST 5, 2009**

The Gates County Board of Commissioners met in Regular Session at 10:00 a.m. on Wednesday, August 5, 2009 in the Commissioners' Room, 202 Court Street, Gatesville, NC. Commissioners Jordan, Jernigan, Askew, Nickens and Twine were present. Also present was County Manager, Toby Chappell and County Attorney, Pitt Godwin.

Chairman Jordan called the meeting to order. A prayer was conducted by Rev. Roger Kiker. Chairman Jordan led the pledge of allegiance.

Approval of Agenda

Chairman Jordan stated the Agenda needed to be amended, Renee McGinnis, Tax Collector and Morgan Jethro, County Planner needed to be added to the agenda and Mike Conner, Assistant Superintendent, Gates County Schools, needs to be removed.

Commissioner Twine made a motion to accept the amended agenda. Commissioner Askew seconded the motion, motion carried without opposition.

Approval of Minutes

Commissioner Nickens made a motion to approve the July 1, 2009 Regular Meeting Minutes as written. Commissioner Twine seconded the motion, motion carried without opposition.

Commissioner Twine made a motion to approve the July 13, 2009 Special Meeting Minutes as written. Commissioner Askew seconded the motion, motion carried without opposition.

Commissioner Nickens made a motion to approve the July 20, 2009 Regular Meeting Minutes as written. Commissioner Jernigan seconded the motion, motion carried without opposition.

Department Reports

Sandy Pittman, Finance Officer, presented Budget Amendments 7-8.

Commissioner Jernigan made a motion to accept Budget Amendments 7-8. Commissioner Twine seconded the motion, motion carried without opposition.

Timmy Hedgepeth, Water Department Supervisor, followed up with a citizen's concern regarding the fluoride level in the County's water. The fluoride level is within legal limits.

Mike Conner, Assistant Superintendent, Gates County Schools, stated it would cost in excess of \$60,000 to install a reverse osmosis system to filter the schools' water. He feels the health effects are very minimal

Mr. Hedgepeth stated at this time the filtration system for the County's water will not be upgraded.

Patrice Lassiter, GITS Director, presented the Application for Operating Assistance for FY 2010 Rural Operating Assistance Program Funds.

Commissioner Nickens made a motion to open the Public Hearing for the Rural Operating Assistance Program (ROAP) Application. Commissioner Twine seconded the motion, motion carried without opposition.

Dan Bazemore, Eure, questioned if \$51,000 from the state was contingent on the application being submitted.

Mrs. Lassister replied the service could not be provided if the money was not funded.

John Hora, questioned if there were any reports on cost.

Mrs. Lassister replied the costs are state or federally funded.

Paulette Britt, questioned how the funds would offset staffing.

Mrs. Lassiter replied services will continue with a full staff.

Chris Rhule, Gatesville, questioned how many people are currently served.

Mrs. Lassiter stated the service statistics are kept on units served and not the count of individual people. Anyone could stop by her office and review these reports.

Commissioner Jernigan made a motion to close the Public Hearing for the Rural Operating Assistance Program Application. Commissioner Nickens seconded the motion, motion carried without opposition.

Commissioner Nickens made a motion to adopt the Rural Operating Assistance Program Application for Gates County for 2010. Commissioner Jernigan seconded the motion, motion carried without opposition.

Marie Rountree, Deputy Tax Collector, presented the June Tax Collector's Report for Renee McGinnis, Tax Collector. She stated the current outstanding tax bills total is \$933,459.14.

Morgan Jethro, Planning Director, stated due to information being omitted from the Board packets regarding the Special Use Permit for Kenny Buck, she asked the Board to either reduce the \$600 fee or to split the fee with Mr. Buck. Mrs. Helen Riddick is also applying for a Special Use Permit. She also asks the Board to reduce the \$600 fee due to special circumstances surrounding Mrs. Riddick's request.

Commissioner Jernigan made a motion to table Mr. Buck's request until the correct maps can be provided. Commissioner Twine seconded the motion, motion carried without opposition.

Commissioner Jernigan made a motion to approve Mrs. Helen Riddick's Special Use Permit with a waived \$600 fee. Commissioner Nickens seconded the motion, motion carried without opposition.

Commissioner Twine stated as the Board of Commissioners, they needed to be compassionate to the needs of the citizens.

After a brief recess the Chairman called the meeting to order.

Old Business

Roger Vann Smith, representing Smith/Buckland, Inc., responded to a letter from Pitt Godwin, County Attorney. He is requesting the Board appoint an Historic Preservation Commissioner and adopt an ordinance to put tax reductions for historic sites into affect.

Chairman Jordan stated, upon the Board's pleasure, they will put together an Historic Preservation Committee to designate rules, regulations and procedures to identify historic sites in Gates County and then adopt a resolution.

Mr. Smith stated he would like to serve on the Historic Preservation Committee.

New Business

Debra Sheard, Regional Long Term Care Ombudsman, Albemarle Commission, discussed the Community Advisory Committee. Each county in the state, which has a long term care facility, has a representative. Local members take an active interest in the residents' quality of care and rights. She made the recommendation to appoint Fay Darden Smith to replace the unexpired term of Mary Love Lilley on the Gates County Community Advisory Committee. Mrs. Smith's term will expire on September 30, 2011.

Commissioner Nickens made the motion to appoint Fay Darden Smith to the Gates County Community Advisory Committee. Commissioner Twine seconded the motion, motion carried without opposition.

Toby Chappell, County Manager, presented a request by Fentress Morris to appoint Abrom Saunders to the Economic Improvement Board of Directors, with his term to expire September 1, 2010.

Commissioner Jernigan made a motion to appoint Abrom Saunders to the Economic Improvement Board of Directors. Commissioner Twine seconded the motion, motion carried without opposition.

Mr. Chappell presented the 2010 Holiday Schedule.

Commissioner Askew made a motion to approve the 2010 Holiday Schedule as presented. Commissioner Nickens seconded the motion, motion carried without opposition.

The 2010 Holiday Schedule reads as follows:

2010 Holiday Schedule

New Year's Day	January 1
Martin Luther King's Birthday	January 18
Good Friday	April 2
Memorial Day	May 31
Independence Day	July 5 (observed)
Labor Day	September 6
Veteran's Day	November 11
Thanksgiving Holiday	November 25 and 26
Christmas Holiday	December 23, 24 and 27
Employee Birthday	Birthdate

Bert Banks, Director, Albemarle Commission, discussed the services Gates County receives for its \$7,141 appropriation. He is currently asking the Economic Development Administration to finance the proposed waste water treatment system. He recommends the Board authorize Chairman Jordan to sign the application when it is completed.

Commissioner Twine made a motion to authorize Chairman Jordan to sign the EDA Application when completed. Commissioner Nickens seconded the motion, motion carried without opposition.

Citizen Comments

Chris Rhule, Gatesville, stated he was concerned seeing people with an out-of-state license on their vehicle using the County's convenience sites. He is displeased with the current increase in property tax values and the Board not doing anything for the citizens, there is no senior citizen site.

Fred Harvey, Reynoldson, questioned how citizens with private wells were billed for solid waste.

Mr. Chappell explained they were billed quarterly.

John Hora, Eure, suggested implementing a temporary sticker program for County residents to be identified for use at the convenience sites.

Commissioner Twine made a motion to recess for lunch. Commissioner Jernigan seconded the motion, motion carried without opposition.

The meeting reconvened after lunch. Chairman Jordan called the meeting to order.

Commissioner Twine made a motion to enter into Closed Session. Commissioner Askew seconded the motion, motion carried without opposition.

Commissioner Nickens made a motion to exit Closed Session and enter into Regular Session. Commissioner Askew seconded the motion, motion carried without opposition.

Commissioner Twine made a motion to adjourn. Commissioner Askew seconded the motion, motion carried without opposition.

The following bills were ordered paid:

Check #	Vendor	Date	Amount
7701	HILTON WILMINGTON RIVERSIDE	07/06/2009	334.87
7702	NCACDSS	07/06/2009	95.00
7703	ALBEMARLE ADVALOREM TAX A	07/10/2009	20.00
7704	ALBEMARLE COMMISSION	07/10/2009	1,831.00
7705	APPLE TIME, INC	07/10/2009	419.57
7706	BB&T	07/10/2009	6,752.12
7707	CASTELOW WENDY	07/10/2009	674.90
7708	CHOWAN COUNTY	07/10/2009	50,000.00
7709	DOMINION NC POWER	07/10/2009	315.08
7710	GATESVILLE POSTMASTER	07/10/2009	56.00
7711	HALSTEAD JOHN W.	07/10/2009	26.00
7712	LE BLEU BOTTLED WATER	07/10/2009	15.95
7713	LOGICS LLC	07/10/2009	14,875.00
7714	NC PERMITTING PERSONNEL	07/10/2009	50.00
7715	NC SHERIFF'S ASSOCIATION	07/10/2009	227.29
7716	NCACC	07/10/2009	1,966.00
7717	PITTMAN SANDRA L.	07/10/2009	20.87
7718	QUILL CORP.	07/10/2009	566.23
7719	RANDALL RHODES K	07/10/2009	500.00
7720	ROANOKE ELEC MEMBERSHIP C	07/10/2009	261.53
7721	SOUTHERN SOFTWARE INC	07/10/2009	1,000.00
7722	SPIVEY DOUGLAS R.	07/10/2009	47.39
7723	TOSHIBA BUSINESS SOLUTION	07/10/2009	126.00
7724	UNIFIRST CORP	07/10/2009	70.63
7725	US POSTAL SERVICE	07/10/2009	506.60
7726	WINDOWARE INC	07/10/2009	1,200.00
7727	A R CHESSON CONSTRUCTION CO., INC	07/10/2009	600,210.55
7728	ALBEMARLE REGIONAL HEALTH	07/10/2009	51,353.69
7729	APPLE TREE LEARNING CENTER	07/10/2009	483.60
7730	BALLARD DOROTHY G.	07/10/2009	115.10
7731	BANK OF AMERICA	07/10/2009	24.00
7732	BB&T	07/10/2009	40.00
7733	BOONE PATRICIA	07/10/2009	186.45
7734	C&N BASIC LEARNING	07/10/2009	266.00
7735	CAROLINA COMPUTER	07/10/2009	75.00
7736	CENTRAL FORD INC	07/10/2009	92.88
7737	CHOWAN COUNTY	07/10/2009	12,966.82
7738	CHOWAN HOSPITAL HOME CARE	07/10/2009	5,420.00
7739	CLINICAL SOLUTIONS	07/10/2009	6.99
7740	DIANE BROTHERS	07/10/2009	2,354.20
7741	DING DONG SCHOOL	07/10/2009	772.00
7742	DIXIE AUTO PARTS	07/10/2009	629.99
7743	DOMINION NC POWER	07/10/2009	34.79
7744	EMBARQ	07/10/2009	1,800.00
7745	ENVIRONMENT I INC	07/10/2009	380.00
7746	FIRST CITIZENS BANK	07/10/2009	60.00
7747	GATES CO BOARD OF EDUCATI	07/10/2009	1,194.05
7748	GATES-CO WATER DEPT.	07/10/2009	22.00
7749	GATLING DORIS	07/10/2009	242.00
7750	GOD'S LITTLE CHILDREN	07/10/2009	424.00
7751	GOOD PICKIN' INC	07/10/2009	765.00
7752	HOLLEY REBA G.	07/10/2009	117.15
7753	JOHNSON CHILD CARE HOME	07/10/2009	1,855.90
7754	JOYCE A RIDDICK	07/10/2009	1,486.65
7755	KIDS RETREAT DAYCARE-PRESCHOOL	07/10/2009	343.00
7756	LASSITER'S DAY CARE INC	07/10/2009	5,655.50
7757	M & E PRESCHOOL, INC	07/10/2009	471.15
7758	MARY'S LITTLE LAMBS	07/10/2009	7,820.50
7759	MOMMA THERESA'S FCCH	07/10/2009	736.00
7760	NC DEPT OF ADMINISTRATIO	07/10/2009	120.00
7761	NC DEPT OF PUBLIC INSTRUC	07/10/2009	30.00

7762	NC DEPT OF REVENUE	07/10/2009	906.00
7763	NC STATE BUREAU OF INVEST	07/10/2009	445.00
7764	REG OF DEEDS SUPP PENSION	07/10/2009	74.03
7765	REID INGRID J.	07/10/2009	548.70
7766	ROANOKE-CHOWAN PUBLISHING	07/10/2009	183.60
7767	SOUTHERN BANK & TRUST CO	07/10/2009	64.00
7768	SYKES CORINE R.	07/10/2009	874.15
7769	SZYMANSKI STEVE	07/10/2009	1,376.77
7770	TANYA'S LOVING WITH LEARN	07/10/2009	781.00
7771	THE CHILDREN'S CENTER	07/10/2009	227.00
7772	TINKER BELL DAY CARE CENTER LTD	07/10/2009	522.00
7773	TOTAL BILLINGS INC	07/10/2009	4,391.33
7774	US CELLULAR	07/10/2009	626.58
7775	WASTE INDUSTRIES INC	07/10/2009	270.09
7776	WINDSOR BAPT. CHURCH WEEKDAY EDUCATION MINISTRY	07/10/2009	494.00
7777	WOMBLE GENERATOR SERVICE	07/10/2009	215.00
7778	WYNN VALERIE H.	07/10/2009	1,378.50
7779	JOHNSON BRYAN D.	07/13/2009	108.68
7780	HAWKS BRANDON	07/13/2009	133.68
7781	HOLIDAY INN HOTEL & SUITES	07/13/2009	172.22
7782	ALBEMARLE COMMISSION	07/16/2009	7,682.00
7783	ALBEMARLE RC&D COUNCIL	07/16/2009	750.00
7784	CHOWAN COUNTY	07/16/2009	246.25
7785	DOMINION NC POWER	07/16/2009	1,200.00
7786	E/Z PAGE	07/16/2009	26.95
7787	GATES CO BD OF EDUC/CAP O	07/16/2009	5,000.00
7788	GATES CO BOARD OF EDUCATI	07/16/2009	115,000.00
7789	GILBERT'S BODY SHOP	07/16/2009	350.00
7790	GODWIN LAW FIRM	07/16/2009	4,562.50
7791	JOHNSON CONTROLS, INC.	07/16/2009	44,944.00
7792	NC DEPT OF MOTOR VEHICLES	07/16/2009	1,685.55
7793	NC STATE BUREAU OF INVEST	07/16/2009	900.00
7794	NCARD - DISTRICT VI	07/16/2009	225.00
7795	OKLESHEN B J	07/16/2009	50.00
7796	PURCHASE POWER	07/16/2009	47.88
7797	ROANOKE ELEC MEMBERSHIP C	07/16/2009	88.19
7798	UNC SCHOOL OF GOVERNMENT	07/16/2009	1,260.00
7799	WEBB EDWARD E.	07/16/2009	102.53
7800	ALBEMARLE DISTRICT JAIL	07/16/2009	560.00
7801	BOONE PATRICIA	07/16/2009	68.05
7802	BRODY SCHOOL OF MEDICINE	07/16/2009	300.00
7803	CAVANAUGH & ASSOCIATES, P.A.	07/16/2009	21,000.00
7804	JOHNSON CONTROLS, INC.	07/16/2009	22,472.00
7805	NC DEPART OF TRANSPORTATI	07/16/2009	90.34
7806	NORTH CAROLINA LEAGUE OF MUNICIPALITIES	07/16/2009	28.00
7807	OFFICE MAX, INC	07/16/2009	850.80
7808	PIEDMONT NATURAL GAS	07/16/2009	90.29
7809	PURCHASE POWER	07/16/2009	600.00
7810	THE SANBORN MAP CO.	07/16/2009	2,800.00
7811	ALBEMARLE HOSPITAL FOUNDA	07/23/2009	500.00
7812	BLAKE FORD MERCURY	07/23/2009	16,500.00
7813	BROWN'S MOBILE HOME SALES, INC	07/23/2009	300.00
7814	CAROLINA COMPUTER	07/23/2009	225.00
7815	COURTHOUSE COMPUTER SYSTEMS	07/23/2009	8,150.00
7816	DAWSON BROS CO INC	07/23/2009	687.69
7817	DOMINION NC POWER	07/23/2009	184.70
7818	DOMINION NC POWER	07/23/2009	1,275.82
7819	FAMILY FOODS OF SUNBURY	07/23/2009	20.00
7820	GODWIN LAW FIRM	07/23/2009	225.00
7821	GREAT AMERICA LEASING CORP	07/23/2009	411.68
7822	HIGH & CROWE LLP	07/23/2009	12.00
7823	JORDAN HENRY L.	07/23/2009	196.43
7824	NC BUILDING INSPECTORS' A	07/23/2009	45.00
7825	NC DEPARTMENT OF REVENUE	07/23/2009	1,015.20
7826	NC DEPT OF MOTOR VEHICLES	07/23/2009	501.00
7827	NC MECHANICAL INSP ASSOC	07/23/2009	50.00
7828	OFFICE MAX, INC	07/23/2009	1,083.83

7829	QUILL CORP.	07/23/2009	315.12
7830	R L BALLARD & ASSOCIATES	07/23/2009	568.17
7831	ROANOKE ELEC MEMBERSHIP C	07/23/2009	851.64
7832	SOUTHERN BANK & TRUST CO	07/23/2009	281,363.11
7833	TOSHIBA BUSINESS SOLUTION	07/23/2009	224.23
7834	UNIVAR USA INC	07/23/2009	968.03
7835	DOMINION NC POWER	07/23/2009	11,032.01
7836	ELLIS SWAMP DRAINAGE DIST	07/23/2009	29.37
7837	EURE VOLUNTEER FIRE DEPAR	07/23/2009	2,162.42
7838	FAMILY FOODS OF GATES	07/23/2009	13.13
7839	GATES VOL FIRE DEPARTMENT	07/23/2009	2,162.42
7840	GATESVILLE VOL FIRE DEPAR	07/23/2009	2,162.42
7841	HOBBSVILLE DRAINAGE DIST	07/23/2009	1.56
7842	HOBBSVILLE VOLUNTEER FIRE	07/23/2009	2,162.42
7843	HOLLEY SANDY A.	07/23/2009	17.17
7844	HOLLY GROVE DRAINAGE #1	07/23/2009	31.55
7845	MEG INVESTMENTS, LLC	07/23/2009	20.00
7846	ROANOKE ELEC MEMBERSHIP C	07/23/2009	692.13
7847	ROYALWOOD ASSOCIATES, INC.	07/23/2009	38,617.00
7848	SUNBURY FIRE DEPT STATION - CORAPEAKE	07/23/2009	1,908.01
7849	TOWN OF GATESVILLE	07/23/2009	2,957.86
7850	GATES COUNTY HISTORICAL SOCIETY	07/31/2009	5,000.00
7851	RESCARE HOME CARE	07/31/2009	32.00
7852	SUNBURY FIRE DEPT STATION	07/31/2009	2,162.42
7853	TOWN OF GATESVILLE WATER	07/31/2009	152.00
7854	AFLAC	07/31/2009	2,451.02
7855	ARLINE CONSTANCE P.	07/31/2009	71.23
7856	BAILEY CHRISTINA & MICHAEL	07/31/2009	14.56
7857	BRINKLEY, BETTY JEAN & HARRELL, EVELYN	07/31/2009	265.90
7858	CAROLINA COMPUTER	07/31/2009	75.00
7859	CINTAS CORP #391	07/31/2009	221.60
7860	COLONY TIRE CORPORATION	07/31/2009	1,642.02
7861	DM BENNETT CONSTRUCTION	07/31/2009	14,230.00
7862	EBSCO.TELESERVICES	07/31/2009	43.98
7863	EMBARQ	07/31/2009	2,036.50
7864	EURE HENRY C.	07/31/2009	600.00
7865	FINLEY MAXINE	07/31/2009	23.65
7866	GATES COUNTY HISTORICAL SOCIETY	07/31/2009	5,000.00
7867	GATESVILLE POSTMASTER	07/31/2009	1,000.00
7868	HARDEE, JR WILLIE R.	07/31/2009	200.00
7869	HARRELL SHARON G.	07/31/2009	186.13
7870	HERITAGE TITLE SERVICES	07/31/2009	22.00
7871	JILES JEROME & NOLA	07/31/2009	14.28
7872	JOHNSON CONTROLS, INC.	07/31/2009	13,483.00
7873	KANAWHA INSURANCE	07/31/2009	1,488.19
7874	KNIGHT JAMES L.	07/31/2009	215.50
7875	NC CHILD SUPPORT	07/31/2009	350.00
7876	NC DEPARTMENT OF REVENUE	07/31/2009	9,696.00
7877	NC DEPT OF REVENUE	07/31/2009	268.36
7878	NCACC GROUP BENEFITS POOL	07/31/2009	40,076.18
7879	NCACC NCCL & PIPF	07/31/2009	81,966.00
7880	NCACC/JRMA	07/31/2009	51,354.00
7881	OZEE KATHY	07/31/2009	12.69
7882	QUILL CORP.	07/31/2009	86.45
7883	ROANOKE ELEC MEMBERSHIP C	07/31/2009	544.70
7884	ROYALWOOD ASSOCIATES, INC.	07/31/2009	17,659.00
7885	SALISBURY, SR STANLEY B.	07/31/2009	11.42
7886	SMITH PAUL	07/31/2009	30.00
7887	SPRUILL ANN C.	07/31/2009	265.57
7888	SUPERIOR VISION	07/31/2009	300.96
7889	THE PETALER FLORIST & GIF	07/31/2009	58.71
7890	US CELLULAR	07/31/2009	68.05
7891	VERIZON WIRELESS	07/31/2009	51.73
100492	HOLLEY, TIA	07/01/2009	387.17
100493	MIZE, DERRICK G	07/15/2009	220.12
100494	JERNIGAN, KENNETH	07/31/2009	605.21
100495	MORRIS, BETTY	07/31/2010	1,406.30

100496	HARRELL, SHARON G.	07/31/2011	2,647.18
100497	HORTON, MARY C	07/31/2012	1,203.10
100498	HAYER, CHARLETTE	07/31/2013	484.01
100499	MEADS, CURTIS R	07/31/2014	1,438.43
100500	JOHNSON, BRYAN D	07/31/2015	1,785.73
100501	PARKER II, GEORGE A	07/31/2016	1,707.42
100502	WILKINS, LACEY D	07/31/2017	1,792.70
100503	WINN, WILLIAM A	07/31/2018	2,769.03
100504	EDWARDS, ASHLEY C	07/31/2019	517.84
100505	EURE, SHERRI L	07/31/2020	372.33
100506	RIDDICK, WILLIAM G	07/31/2021	2,234.72
100507	TRIPP, VALERIE S	07/31/2022	1,566.55
100508	NORMAN, HAYWOOD	07/31/2023	1,082.67
100509	REID, LINDA J	07/31/2024	703.14
100510	RIDDICK, ESTHER W	07/31/2025	697.34
100511	SPIVEY, JOHN L	07/31/2026	657.50
100512	SWINTON, LORENZO	07/31/2027	516.34
100513	HOUSE, ISAAC D.	07/31/2028	866.46
100514	KIRKLAND, RASHAWNDA	07/31/2029	326.50
100515	LEWIS, SHAKINMA V.	07/31/2030	302.97
100516	WILLIAMS, JAYQUAN T.	07/31/2031	696.48
100517	WILSON, PRISCILLA	07/31/2032	838.16
100518	WORTHINGTON, TYRIKA	07/31/2033	575.99
100519	LOWE, MATTHEW R	07/31/2034	1,702.98
100520	BOONE-HALL, CHERYL A	07/31/2035	1,513.55
100521	METZ, KIMBERLY J	07/31/2036	1,458.78
100522	OWENS, DIANNE S	07/31/2037	1,442.08
100523	CROSS JR., EDWARD A	07/31/2038	1,750.94
100524	PARKER, BRIAN C	07/31/2039	1,644.38
100525	POWELL, DANIEL S	07/31/2040	1,605.64
100526	STALLS, CHARLIE	07/31/2041	1,997.27
ACH	BAKER, SANDY W	07/31/2042	1,798.93
ACH	WILSON, PATSY M.	07/31/2043	1,423.94
ACH	MCGINNIS, RENEE' H.	07/31/2044	3,083.24
ACH	ROUNTREE, SANDRA W	07/31/2045	2,013.93
ACH	WESTER, PAMELA A	07/31/2046	1,681.75
ACH	BAUM, MARY K	07/31/2047	1,740.73
ACH	WILLIAMS, ANN T	07/31/2048	1,001.14
ACH	HOLLEY, ANTIONETTE P	07/31/2049	2,821.50
ACH	PIERCE, GRACIE P	07/31/2050	1,583.17
ACH	POWELL, RHONDA B	07/31/2051	1,517.02
ACH	EURE, EVANGELINE	07/31/2052	1,668.73
ACH	WEBB, EDWARD E	07/31/2053	3,049.31
ACH	SPRUILL JR., WILLIAM E	07/31/2054	2,118.17
ACH	MELTON, RANDELL DELORES	07/31/2055	1,605.48
ACH	PARKER, GLYNDA S	07/31/2056	2,038.24
ACH	HATHAWAY, RANDALL A	07/31/2057	2,135.07
ACH	MOORE, VIRGINIA C	07/31/2058	1,891.79
ACH	CLARK, ANDREA	07/31/2059	1,780.46
ACH	TURNER, COLLEEN K	07/31/2060	3,701.65
ACH	HARRELL, P ELIZABETH	07/31/2061	1,486.56
ACH	PARKER, PHYLLIS A	07/31/2062	2,152.23
ACH	BROWN, DAROYLL C	07/31/2063	1,861.81
ACH	FREEMAN, SHELIA	07/31/2064	1,695.35
ACH	LASSITER, PATRICE T	07/31/2065	2,398.62
ACH	CROSS, LULA M	07/31/2066	983.91
ACH	HOLLEY, DANIT L	07/31/2067	1,332.48
ACH	JORDAN, TIMOTHY A	07/31/2068	1,395.64
ACH	BOONE, SHERRY F	07/31/2069	2,278.74
ACH	SMITHSON, CONNIE C	07/31/2070	2,615.64
ACH	ROUNTREE, MARIE D	07/31/2071	1,680.95
ACH	RIDDICK, CLARA P	07/31/2072	1,680.74
ACH	OWENS, GLADYS S	07/31/2073	1,464.41
ACH	BOONE, CRYSTAL R	07/31/2074	1,574.58
ACH	KNIGHT, TAMEKA E	07/31/2075	951.12
ACH	EARLEY, DEBRA H	07/31/2076	382.63
ACH	HAWKS, BRANDON S	07/31/2077	1,912.36

ACH	CHAPPELL, TRACIE L	07/31/2078	1,635.04
ACH	BRODIE, GEORGE S	07/31/2079	580.48
ACH	STONE, SHELLEY A	07/31/2080	1,576.12
ACH	WALKER, DAPHNE B	07/31/2081	1,228.78
ACH	JORDAN, ROBERT E	07/31/2082	1,533.62
ACH	MITCHELL, EDGAR LEE	07/31/2083	2,496.48
ACH	REYNOLDS, ROBERT M	07/31/2084	1,846.66
ACH	CUTLER, MARY B	07/31/2085	1,334.41
ACH	PITTMAN, SANDRA L	07/31/2086	2,820.71
ACH	HEDGEPEETH, TIMOTHY M	07/31/2087	2,947.43
ACH	SAUNDERS, LAKISHA	07/31/2088	1,485.50
ACH	ASKEW, WADE H.	07/31/2089	457.35
ACH	HENDRIX, DIANE R.	07/31/2090	1,841.84
ACH	DREWYOR, CHRISTINA M.	07/31/2091	1,229.17
ACH	TWINE, GRAHAM	07/31/2092	443.33
ACH	CHAPPELL, TOBY L	07/31/2093	4,572.55
ACH	MIZE, DERRICK G	07/31/2094	1,760.42
ACH	JORDAN, HENRY L.	07/31/2095	731.27
ACH	WILLIAMS, DOMINIQUE D.	07/31/2096	1,905.84
ACH	LASSITER, DAVID	07/31/2097	2,085.72
ACH	JETHRO, MORGAN C	07/31/2098	1,674.39

MINUTES OF BOARD OF EQUALIZATION AND REVIEW

May 26, 2009

The Gates County Board of Commissioners reconvened as the Board of Equalization and Review at 9:30 A.M. in the Commissioner's Room, May 26, 2009.

Those present were Chairperson Henry Jordan, Wade Askew, Carlton Nickens, Graham Twine, County Manager Toby Chappell, Robert Ezell of Pearson Appraisals and Tax Administrator Renée McGinnis.

Chairperson Jordan called the meeting to order. With no scheduled appeals the Board asked to review lot sales in the county with concern of the lot values in the southern areas.

After review of lot sales in the southern areas of the county, including Sunbury and Corapeake, there was much discussion concerning a reduction in lot values and neighborhoods.

The Board requested a review of all lot sales in the county. Following review of random property record cards, Robert Ezell presented a report to the Board concerning lot sales throughout the county.

Chairperson Jordan feels a public statement needs to be made concerning how the appraisal firm arrived at lot values. Commissioner Twine expressed concern of dividing the county into neighborhoods.

After minimal discussion the motion was made by Commissioner Askew to extend the adjournment date of the Board of Equalization and Review to July 21, 2009. The motion was seconded and carried.

There continued to be discussion on adjusting lot values or allowing the taxpayer to use the appeal process. With no formal action taken, Chairperson Jordan advised Tax Administrator McGinnis to continue as we currently were.

Commissioner Twine moved the Board adjourn until June 4, 2009 at 3:30 PM. The motion was seconded by Commissioner Nickens and carried.

Renée H. McGinnis
Clerk

MINUTES OF BOARD OF EQUALIZATION AND REVIEW

June 9, 2009

The Gates County Board of Commissioners convened as the Board of Equalization and Review at 9:30 A.M. in the Commissioner's Room, June 9, 2009.

Those present were Chairperson Henry Jordan, Wade Askew, Carlton Nickens, Graham Twine, Kenneth Jernigan, Robert Ezell of Pearson Appraisals and Tax Administrator Renée McGinnis.

Chairperson Jordan called the meeting to order.

Mrs. McGinnis and Mr. Ezell presented the Board with information on the Bobbie Johnson appeal. It was noted that upon further inspection of the house, major problems existed due to large cracks in the brickwork. By motion of Commissioner Twine and second by Commissioner Jernigan, the Board moved to change the condition of the house from average to fair and to change the effective age from 25 years to the actual age of 52 years, decrease the value of two barns from \$75 each to \$0 and to decrease the value of a 40 X 100' building from \$700 to \$500. This action decreased the value by \$40,121. Commissioner Twine also noted an easement existed across a portion of the property for Roanoke Electric. Mrs. McGinnis also reported a correction had been made in the number of acres for cleared and woods land.

Following some discussion concerning an appeal request by Mr. Joe Greene due to drainage issues on parcel number 02-00263, Commissioner Askew moved an adjustment of \$10,000 or percentage of that approximate value be deducted from the home site value. The motion was seconded by Commissioner Twine and carried.

Commissioner Twine moved the Board recess until June 23, 2009 at 9:30 A.M. The motion was seconded by Commissioner Askew and carried.

Renée H. McGinnis
Clerk

MINUTES OF BOARD OF EQUALIZATION AND REVIEW

July 21, 2009

The Gates County Board of Commissioners reconvened as the Board of Equalization and Review at 9:30 A.M. in the Commissioner's Room, July 21, 2009.

Those present were Chairperson Henry Jordan, Carlton Nickens, Graham Twine, Kenneth Jernigan, Wade Askew, Robert Ezell of Pearson Appraisals and Tax Administrator Renée McGinnis.

Chairperson Jordan called the meeting to order.

Mrs. McGinnis presented a late filed homestead exemption application to the Board. The application was filed by Darlene Nowell for her mother Margie Jordan. Commissioner Twine moved the application be approved contingent upon Ms. Nowell being legal power of attorney for Margie Jordan. The motion was seconded by Commissioner Nickens and carried.

Chairperson Jordan asked for the first scheduled appellant, Patricia Lilley: Mrs. Lilley presented a fee appraisal dated January 2007 that was prepared as part of an estate settlement. Her concern was the high tax value compared to the fee appraisal. Mr. Ezell and Mrs. McGinnis were asked by the E & R Board to revisit the property and report back to them any recommended changes in the assessed property value.

Appellant Jacqueline Gaither had concerns with two parcels. She stated parcel number 10-01911 would not perk and that she was unable to purchase a right of way to the property. The property is currently coded as no access. Mrs. Gaither is to furnish documentation from the health department concerning the results of the perk test. Parcel 10-00561 is located on US 13, is growing up, has never been farmed and was used by NCDOT to store rocks. Because of the rocks it cannot be farmed because of damaging the equipment. Mrs. Gaither purchased the property in April 2006 for \$32,000. She presented data to the Board concerning sales that she felt compared to the parcel. Mr. Ezell and Mrs. McGinnis will visit the lot and report back to the E & R Board any recommended changes in the assessed property value. Mrs. Gaither also had concerns with her parent's property. Chairperson Jordan advised her to check into the homestead exemption and the use value program.

Appellant Loyce Twiford owns property on the north side of US 158 at the Dismal Swamp. Mr. Twiford stated the land is valued more than the land on the south side of the road and the land is under water. Mr. Twiford stated the bridge was installed to access the land for hunting. Mrs. McGinnis will review the soil classifications and report back to the E & R Board any recommended changes in the assessed property value.

Chairperson Jordan called for a five-minute recess.

Chairperson Jordan called the meeting back to order and called Appellant Levertis Alexander.

Levertis Alexander was representing Mary Juanita Alexander Jones. The lot is only one-half acre, has no septic tank or running water. The question was raised if the lot could be developed under the current County ordinances or was it grandfathered as an existing lot? Mrs. McGinnis is to speak with County Planner, Morgan Jethro and ask her to confer with County Attorney, Pitt Godwin as to rather the lot is grandfathered and can possibly be developed.

Appellant Peggy Parker presented concerns with the value of her home and land. The land is located in a flood zone and cannot be developed. The land is used for pasture and drops off in the back and floods. The home is settling, plumbing and wiring need to be replaced and the insulation has settled. Vinyl siding has been applied and central air and heat installed in previous years. Storm windows have also been installed. Mrs. McGinnis stated they would like to revisit the property and would do so later this day.

Appellant Aaron Brown was concerned with not being accepted for the use value program. The program and qualifying elements were explained to Mr. Brown. Upon further information Mr. Brown was asked to resubmit his application. All data was not provided on the initial application.

Appellant Geneva Canada, represented by Roger Smith appealed the value of the home located at 1020 NC 37 North. Mr. Smith read a Supreme Court ruling that stated although all approaches to value should be used to determine value; more emphasis should be placed on the income approach. Mrs. McGinnis asked if the property in question was rental property. The property is not rented but is the home of Mrs. Canada. Mr. Smith stated the Court decision involved a shopping mall. Mrs. McGinnis stated the better approach on own occupied residential property was the sales comparison approach. It is hard to use the income approach when there is no income. Mr. Twine stated he felt that issue needed to go beyond the Board of Equalization and Review. Mr. Smith stated the burden of proof would be with the taxpayer and it would not be pursued. Mrs. McGinnis stated they would revisit the property and review the value. Mr. Smith also stated a cemetery was located on the Willie Baker property of which Ms. Canada is an heir. Ms. Canada is to furnish the tax department with a plat of the cemetery.

Appellant Traci Travis presented a fee appraisal to the Board for \$157,000 and the tax value is currently \$161,674. Ms. Travis felt the tax value should be no higher than the fee appraisal. Chairperson Jordan explained that values from sales after January 1, 2009 could not be used in this revaluation. Mrs. Travis asked that the tax value remain at \$161,674. The property record card listed an above ground pool. Mrs. McGinnis stated the above ground pool, because there was no decking would be removed from the record.

Appellant Fred Spivey felt that land should be valued by what it will produce. His concern was with the property identified by PIN 06-00679. He stated the cleared land consists of 55.89 acres of Exum and Lynchburg soils and 82.11 acres of bladen soil. The woods land is all Bladen. Mrs. McGinnis will check the soils per the GIS and report back to the E & R Board any recommended changes in the assessed property value. It was also noted the house has two bathrooms and not four as indicated on the property record card. Mr. Spivey also noted the number of cleared acres on his farm identified by PIN 10-00658 should be 73.47.

Appellants Beth Morgan and Estelle Blanton appealed the values on several tracts owned by them and C. C. Edwards heirs. The Board was presented with a statement listing their concerns. Please see attachment.

Appellant Andrew Eure was concerned with what he felt was a high value on his 42-acre tract. The records showed seven acres of cleared land that Mr. Eure stated had been planted in trees through the CREP program. Mrs. McGinnis stated the seven acres would be changed to woods land and that would reduce the value.

Appellant Rachel Rountree presented concerns on two properties. One property contains one-half acre and the other 1.27 acres but only 146 feet of road frontage. Her concern was that the properties could not be developed under current County ordinances. Mrs. McGinnis will discuss these properties with the County Planner.

Appellant Kenny Buck had concerns with Rooks Farm Lot #2 containing 10.01 acres. The value of this tract was higher than other ten-acre tracts in the subdivision. Mrs. McGinnis stated the difference was in the cleared versus woods land in the residual acreage. Mrs. McGinnis will review the lots with the GIS. Mr. Buck requested that Mrs. McGinnis review the values of lots 8 – 12 on Rooks Farm.

Appellant Michael Henderson presented concerns on two properties. A 3.93-acre tract located on Rountree Lane off Taylor Mill Road. Mrs. McGinnis stated the tract was wooded and that Rountree Lane was not developed to the lot and the soil class is Nawney, which is frequently flooded. The second tract containing 50-acres woods land did not qualify for use value. Mr. Henderson is in the process of working with the Forestry Service on the management of the tract and will reapply for use value in 2010.

Appellant Miles Langston stated that all of his property was woods land except for his home site and that 8-acres stayed wet October – March. Mrs. McGinnis will check the soil types per GIS and report back to the E & R Board any recommended changes in the assessed property value.

Appellant Robert McPherson presented the Board with a fee appraisal. The sales comparison approach on the fee appraisal was 388,500 and the cost approach was 487,722. The current tax value is 451,569. Upon review of the tax records and the fee appraisal, it was determined the home which was built in 2006 with 3,600+ square feet of living space was overbuilt for the area. Mr. Ezell suggested a 20% reduction due to being overbuilt; which is the same that was done for similar properties in the County during the revaluation. The Board scheduled a work session for Thursday, July 30, 2009 at 9:30 AM to review and finalize all data received by the Board.

With no further appeals received to date, Commissioner Jernigan moved to adjourn as the Board of Equalization and Review. The motion was seconded by Commissioner Nickens and approved unanimously.

Renée H. McGinnis
Clerk

MINUTES OF BOARD OF EQUALIZATION AND REVIEW

July 30, 2009

The Gates County Board of Commissioners met as the Board of Equalization and Review at 9:30 A.M. in the Commissioner's Room, July 30, 2009 to review and finalize appeals.

Those present were Chairperson Henry Jordan, Carlton Nickens, Graham Twine, Kenneth Jernigan, Wade Askew, Robert Ezell of Pearson Appraisals and Tax Administrator Renée McGinnis.

Chairperson Jordan called the meeting to order.

Commissioner Jernigan made the motion to approve the July 7th and July 21st meeting minutes. The motion was seconded by Commissioner Twine and carried unanimously.

A spreadsheet of previously approved appeals was submitted to the Board. (Attachment 1)

A spreadsheet of the appeals to be reviewed with recommendations from Mrs. McGinnis and Mr. Ezell was presented to the Board. The spreadsheet contains three sections; parcels with recommended changes, parcels with no recommended change and parcels pending decision from County Planner. (Attachment 2)

Mrs. McGinnis reviewed with the Board the parcels with no recommended change. See Attachment 2 for reasons of no change. Commissioner Twine moved to accept the recommendations as presented. It was seconded by Commissioner Jernigan and carried unanimously.

Chairperson Jordan called for a five-minute recess.

Following the recess the Board discussed four appealed parcels containing less than one-acre. County Planner Jethro Morgan issued a statement to the Board concerning lots consisting of less than an acre. (Attachment 3) Attorney Pitt Godwin joined the meeting to discuss the interpretation of the County Zoning Ordinance as it referred to lots of less than an acre. Per the County Zoning Ordinance, Article 11, lots less than one acre are non-conforming and will have to be given special use. After much discussion the general consensus was lots less than an acre are not building lots unless the special use has been granted or have an existing home located on the lot. A motion was made by Commissioner Twine and seconded by Commissioner Nickens the lots be valued as vacant land. The motion was carried unanimously. See Attachment 2 for changes in value.

Mrs. McGinnis reviewed with the Board the parcels with recommended changes or corrections. (Attachment 2)

Chairperson Jordan called for a five-minute recess.

Following the recess, Mrs. McGinnis continued the review. After some discussion and recommendations, Commissioner Twine moved to accept the recommendations as discussed. The motion was seconded by Commissioner Askew and carried unanimously. See Attachment 2 for reasons of change.

With no further appeals to review, Commissioner Nickens moved to adjourn. It was seconded by Commissioner Twine and carried unanimously.

Renée H. McGinnis
Clerk

Gates County Planning & Development Services

P.O. Box 411 Gatesville, NC 27938
Ph: (252) 357-0122 Fax (252) 357-4577

MEMORANDUM

TO: Renee McGinnis
FROM: Morgan Jethro, Planning Director
DATE: July 30, 2009
RE: Nonconforming Lots

There exist many situations within Gates County where parcels were surveyed and created prior to zoning regulations. Many parcels are less than the minimum one acre standard, and lack the required road frontage, lot depth, and setbacks. These situations are considered nonconforming situations, and shall be grandfathered in to the zoning ordinances and will be regulated under Article 11 of the Gates County Zoning Ordinances. I have attached Article 11 for your reference.

According to Section 11.02 of the Gates County Zoning Ordinance, "Nonconforming situations that were otherwise lawful on the effective date of this Ordinance may be continued, subject to the restrictions and qualifications set forth in Sections 11.03 through 11.08 of this Article."

If you have any questions or if I can be of assistance in this matter, please do not hesitate to contact my office.

Best regards,

Morgan C. Jethro
Director of Planning
morganjethro@embarqmail.com

Attachments (1) Gates County Zoning Ordinance, Article 11

Revised: January 12, 2009 61

ARTICLE 11 NONCONFORMING SITUATIONS

SECTION 11.01 - Definitions

Unless the context clearly indicates otherwise, the terms defined below are used in this section in the following manner:

1. Nonconforming Situation: A situation that occurs when, on the effective date of this Ordinance or any amendment to it, an existing lot or structure or use of an existing lot or structure does not conform to one or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities, a non-conforming situation may arise because a lot does not meet minimum acreage requirements, because structures do not satisfy maximum height or minimum floor-space limitations, because the

relationship between existing buildings and the land (in such matters as density and setback requirements) is not in conformity with this Ordinance, or because land or buildings are used for purposes made unlawful by this Ordinance.

2. **Nonconforming Use:** A nonconforming situation that occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located. (For example, a commercial office building in a residential district may be a nonconforming use.) The term also refers to the activity that constitutes the use made of the property. (For example, all the activity associated with running a bakery in a residentially zoned area is a nonconforming use.)
3. **Dimensional Nonconformity:** A nonconforming situation that occurs when the height, size, or minimum floor space of a structure or the relationship between an existing building or buildings and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.
4. **Nonconforming Lot:** A lot existing at the effective date of this Ordinance or any amendment to it (and not created for the purpose of evading the restrictions of this Ordinance) that cannot meet the minimum area or lot-width requirements of the district in which the lot is located.
5. **Ordinance:** This Ordinance, including any amendments. Whenever the effective date of this Ordinance is referred to, the reference includes the effective date of any amendment to it.
6. **Nonconforming Project:** Any structure, development, or undertaking that is incomplete at the effective date of this Ordinance and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.
7. **Expenditure:** A sum of money paid out in return for some benefit or to fulfill some obligation.
Whenever the term is used hereafter, it also includes binding, contractual commitments to make further expenditures, as well as any other substantial changes in position.

SECTION 11.02 - Continuation of Nonconforming Situations and Completion of Nonconforming Projects

1. Nonconforming situations that were otherwise lawful on the effective date of this Ordinance may be continued, subject to the restrictions and qualifications set forth in Sections 11.03 through 11.08 of this Article.
2. Nonconforming projects may be completed only in accordance with the provisions of Section 11.08 of this Article.

SECTION 11.03 - Nonconforming Lots

1. When a nonconforming lot can be used in conformity with all of the regulations (other than the area or width requirements) applicable to the district in which the lot is located, such a use may be made as of right. Otherwise, the nonconforming lot may be used only in accordance with a special use permit issued by the Board of Adjustment. The Board shall issue such a permit if it finds that (1) the proposed use is one permitted by the regulations applicable to the district in which the property is located, and (2) the property can be developed as proposed without any significant negative impact on the surrounding property or the public health, safety, or welfare. In issuing the permit authorized by this paragraph, the Board may allow deviations from applicable dimensional requirements (such as setback lines and yard size minimums) if it finds that no reasonable use of the property can be made without such deviations.
2. Whenever this Ordinance creates a nonconforming lot and the owner of the nonconforming lot also owns land adjacent to it, and a portion of this other land can be combined with the nonconforming lot to create a conforming lot (without hereby creating other nonconformities), the owner of the nonconforming lot, or his successor in interest, may not take advantage of the provisions of paragraph 1 of this Section.

SECTION 11.04 - Extension or Enlargement of Nonconforming Situations

1. Except as specifically provided in this subsection, it shall be unlawful for any person to engage in any activity that causes an increase in the extent of nonconformity of a nonconforming situation.
2. Subject to paragraph 4 of this subsection, a nonconforming use may be extended throughout any portion of a completed building that, when the use was made nonconforming by this Ordinance, was manifestly designed or arranged to accommodate such use. However, subject to Section 11.08 of this Article (authorizing the completion of nonconforming projects in certain circumstances), a nonconforming use may not be extended to additional buildings or to land outside the original building.
3. Subject to Section 11.08 of this Ordinance (authorizing the completion of nonconforming projects in certain circumstances), a nonconforming use of open land may not be extended to cover more land than was occupied by that use when it became nonconforming.
4. The volume, intensity, or frequency of use of property where a nonconforming situation exists may be increased and the equipment or processes used at a location where a nonconforming situation exists may be changed if these or similar changes amount only to changes in the degree of activity rather than changes in kind of activity and no violations of other paragraphs of this section occur.
5. Physical alteration of structures or the placement of new structures on open land is unlawful if they result in:
 - a. An increase in the total amount of space devoted to a nonconforming use;
 - b. Greater nonconformity with respect to dimensional restrictions such as yard requirements, height limitations, or density requirements; or
 - c. The enclosure of previously unenclosed area, even though those areas were previously used in connection with the nonconforming activity. An area is unenclosed unless at least 75% of the perimeter of the area is marked by a permanently constructed wall or fence.
6. Minor repairs to and routine maintenance of property where nonconforming situations exist is permitted and encouraged. Major renovations – i.e., work estimated to cost more than 10% of the appraised value of the structure to be renovated (and not required by the partial or total destruction of a structure [see *paragraph 8*]) – may be done pursuant to a special use permit issued by the Board of Adjustment. The Board shall issue such a permit if it finds that the work will not result in a violation of any other paragraphs of this Section (particularly paragraph 3) or make the property more incompatible with the surrounding neighborhood.
7. Notwithstanding paragraph 5, any structure used for single-family residential purposes and maintained as a nonconforming use may be replaced with a similar structure of a larger size, so long as the replacement occurs within one-hundred twenty (120) days of the removal of the original structure, and the replacement does not create new nonconformities with respect to yard size and setback requirements. In particular, a manufactured/mobile home may be replaced with a larger manufactured/mobile home, and a "single-wide" manufactured/mobile home may be replaced with a "double-wide." This paragraph is subject to the limitations stated in Section 11.06 on abandonment and discontinuance of nonconforming situations.
8. A structure that is nonconforming in any respect or a structure that is used in a nonconforming manner may be reconstructed or replaced if partially or totally destroyed, subject to the following restrictions:
 - a. The total amount of space devoted to a nonconforming use may not be increased, except that a larger, single-family residential structure may be constructed in place of a smaller one and a larger manufactured/mobile home intended for residential use may replace a smaller one;
 - b. The reconstructed building may not be more nonconforming with respect to dimensional restrictions such as yard requirements, height limitations, or density requirements, and such dimensional nonconformities must be eliminated if they can reasonably be accomplished without unduly burdening the reconstruction process or limiting the right to continue the nonconforming use of such building;
 - c. The reconstructed building may not enclose areas that were previously unenclosed, even though those areas were used in connection with the nonconforming activity. An area is unenclosed unless at least 75% or more of the perimeter of the area is marked by a permanently constructed wall or fence.

- d. Except for single-family residential structures (including mobile homes), if the estimated cost of the reconstruction work exceeds 10% of the appraised value of the structure, the work may be done only after issuance of a special use permit by the Board of Adjustment. The Board shall issue the permit if it finds that the work will be done in accordance with this paragraph and that the reconstructed building will not make the property more incompatible with the surrounding property than it was before the destruction occurred.

SECTION.11.05 - Change in Kind of Nonconforming Use

1. A nonconforming use may be changed to a conforming use. Thereafter, the property may not revert to a nonconforming use.
2. A nonconforming use may be changed to another nonconforming use only in accordance with a special use permit issued by the Board of Adjustment. The Board shall issue such a permit if it finds that the proposed use will be more compatible with the surrounding neighborhood than the use in operation at the time the application is made for the permit. If a nonconforming use is changed to any use other than a conforming use without obtaining a special use permit pursuant to this paragraph that change shall constitute a discontinuance of the nonconforming use, with consequences as stated in Section 12.06 of this Article.
3. If a nonconforming use and a conforming use, or any combination of conforming and nonconforming uses, or any combination of nonconforming uses exist on one lot, the use made of the property may be changed substantially (except to a conforming use), only in accordance with a special use permit issued by the Board of Adjustment. The Board shall issue such a permit if it finds that the proposed use will be more compatible with the surrounding neighborhood than the use or combination of uses in operation at the time the permit is applied for.

SECTION 11.06 - Abandonment or Discontinuance of Nonconforming Situations

1. When a nonconforming use is (a) discontinued for a consecutive period of one-hundred twenty (120) days, or (b) discontinued for any period of time without a present intention to reinstate the nonconforming use, the property involved may thereafter be used only for conforming purposes, except as provided in paragraph 2 of this Section. Present intention to reinstate the use shall not be considered if the abandoned property lacks maintenance or continuity of public services such as water, electricity, and trash removal.
2. The Board of Adjustment may issue a special use permit to allow a nonconforming use that has been discontinued for more than one-hundred twenty (120) consecutive days to be reinstated if it finds that (a) the nonconforming use has been discontinued for less than one year, and (b) the discontinuance resulted from factors that, for all practical purposes, were beyond the control of the person maintaining the nonconforming use.
3. If the principle activity on property where a nonconforming situation other than a nonconforming use exists is (a) discontinued for a consecutive period of one-hundred twenty (120) days, or (b) discontinued for any period of time without a present intention of resuming that activity, then that property may thereafter be used only in conformity with all of the regulations applicable to the district in which the property is located, unless the Board of Adjustment issues a special use permit to allow the property to be used (for a nonconforming purpose) without correcting the nonconforming situation. The Board shall issue such a permit if it finds that (a) the nonconforming situation cannot be corrected without undue hardship or expense, and (b) the nonconforming situation is of a minor nature that does not adversely affect the surrounding property or the general public to any significant extent.
4. For purposes of determining whether a right to continue a nonconforming situation is lost pursuant to this section, all of the buildings, activities, and operations maintained on a lot are generally considered as a whole. But if a nonconforming use is maintained in conjunction with a conforming use, discontinuance of a nonconforming use for the required period shall terminate the right to maintain it thereafter.
5. When a structure or operation made nonconforming by this Ordinance is vacant or discontinued at the effective date of this Ordinance, the one-hundred twenty (120) day period for purposes of this Section begins to run at the effective date of the Ordinance.

SECTION 11.07 - Termination of Nonconforming Situations

Subject to all other terms and conditions of Article 11 of this Ordinance, nonconforming situations shall not be subject to specific time limitations for permanent discontinuation.

SECTION 11.08 - Completion of Nonconforming Projects

1. All work on any nonconforming project for which a permit has not been issued shall cease on the effective date of this Ordinance. Thereafter, work on nonconforming projects may begin, or may continue, only pursuant to a special use permit issued by the Board of Adjustment (except as provided in paragraph (b) of this section). The Board shall issue such a permit if it finds that the applicant has in good faith made substantial expenditures or incurred substantial binding obligations or otherwise changed his position in some substantial way in reasonable reliance on the land-use law as it existed before the effective date of this Ordinance and thereby would be unreasonably prejudiced if not allowed to complete his project as proposed. In considering whether these findings may be made, the Board shall be guided by the following:
 - a. To the extent that expenditures are recoverable with a reasonable effort, a party shall not be considered prejudiced by having made those expenditures. For example, a party shall not be considered prejudiced by having made expenditure to acquire a potential development site if the property obtained is just as valuable under the new classification as it was under the old, for the expenditure can be recovered by resale of the property.
 - b. An expenditure shall be considered substantial if it is significant both in dollar amount and in terms of (a) the total estimated cost of the proposed project, and (b) the ordinary business practices of the developer.
 - c. A person shall be considered to have acted in good faith if actual knowledge of a proposed adoption of land-use law affecting the proposed development site could not be attributed to him.
 - d. Even though a person had actual knowledge of a proposed adoption of land-use law affecting a development site, the Board of Adjustment may still find that he acted in good faith if he did not proceed with his plans in a deliberate attempt to circumvent the effects of the proposed Ordinance. The Board may find that the developer did not proceed in an attempt to undermine the proposed Ordinance if it determines that (1) at the time the expenditures were made, either there was considerable doubt about whether any Ordinance would ultimately be passed, or it was not clear that the proposed Ordinance would prohibit the intended development; and (2) the developer had legitimate business reasons for making expenditures.
2. The requirements of paragraph 1 of this Section shall not apply to a nonconforming project if the zoning enforcement officer certifies that actual construction of that project began at least 180 days before the effective date of this Ordinance and that the work is at least 75% complete at the effective date of this Ordinance.
3. The Board of Adjustment shall not consider any application for the special use permit authorized by paragraph (1-a) of this section that is submitted more than 90 days after the effective date of this Ordinance, unless it waives this requirement for good cause shown.
4. If the Board of Adjustment issues a special use permit pursuant to paragraph 1 of this section, it may attach such reasonable conditions to the permit as it finds necessary to reduce the extent to which the nonconforming project is incompatible with the surrounding neighborhood. In particular, the Board may require that work on the nonconforming project be continuously maintained, if possible, and that the project be completed as expeditiously as possible.
5. When it appears from the developer's plans or otherwise that the nonconforming project was intended to be or reasonably could be completed in stages, segments, or other discrete units, the Board of Adjustment shall not allow the nonconforming project to be constructed or completed in a fashion that is larger or more extensive than is necessary to allow the developer to recoup and obtain a reasonable rate of return on the expenditures he has made in connection with that nonconforming project.

ARTICLE 12

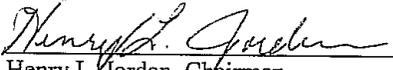
ADMINISTRATION AND ENFORCEMENT

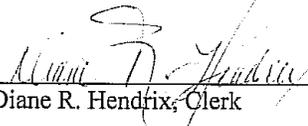
SECTION 12.01 - Administration and Enforcement

The Planning Director shall administer this Ordinance and serve as Enforcement Officer and Zoning Administrator.

The Planning Director shall enforce this Ordinance. The Planning Director may be provided with assistance of such other persons as the Board of Commissioners may direct.

If the Enforcement Officer shall find that any of the provisions of this Ordinance are being violated, he/she shall notify in writing the person responsible for such violation indicating the nature of the violation and ordering the action necessary to correct it. The Enforcement Officer shall order discontinuance of 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 other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions.


Henry L. Jordan, Chairman


Diane R. Hendrix, Clerk

GATES COUNTY BOARD OF COMMISSIONERS
