

**Gates County Board of Commissioners**  
**Regular Meeting Minutes**  
**July 21, 2008**  
**7:00 P.M.**

The Gates County Board of Commissioners reconvened in regular session on Monday, July 21, 2008, at 7:00 p.m. in the main court room, 202 Court Street, Gatesville, NC. Commissioners Pierce, Askew, Jernigan, Nickens and Twine were present. Also present was Interim County Manager, Justin Hembree.

Chairman Pierce called the meeting to order and a prayer and pledge of allegiance was led by Rev. Gene Asbill.

**Scheduled Appointments**

Keith Howell, Community Development Director, with The Albemarle Commission, presented the Budget Ordinance, the Gates County Citizens' Participation Plan, the 504 Compliance Plan and the Equal Employment and Procurement Plan and the Fair Housing Plan for the 2008 Cycle of the CDBG Scattered Site House Grant. With the available funds there would be only three (3) total replacements.

A citizen questioned what happens to the home when the resident dies.

Mr. Howell stated the heirs will either pay off the loan or the home reverts back to the government. This program falls under the umbrella of Economic Development. He also asked the Commissioners to appoint a liaison to assist him in choosing the recipients and to get guidance from the Board.

Tommy Langston questioned if a citizen only makes \$500 per month, how will they be able to make a monthly payment?

Mr. Howell responded the citizen will not be making payments as long as they live. To be accepted into the program the citizen will have met specific criteria, i.e. age, disability, handicapped, income, etc.

Commissioner Nickens made a motion to accept the CDBG Grant as proposed by Mr. Howell. Commissioner Askew seconded the motion, motion carried without opposition.

Patrice Lassiter, GITS Program Director, presented the FY09 Rural Operating Assistance Program Funds Application for EDAPT, Employment Transportation, Rural General Public and Supplemental ROAP Funds.

Chairman Pierce stated this was a great program for the county that costs the county very little. He then opened the Public Hearing. There were no comments from the public. Chairman Pierce closed the Public Hearing.

Commissioner Jernigan made a motion to accept the FY09 Rural Operating Assistance Program Funds Application as presented by Mrs. Lassiter. Commissioner Nickens seconded the motion, motion passed without opposition.

Randall Cahoon, Director of Planning and Development, presented the change in the zoning ordinance text Note 7, Overnight Camping Trailer.

Commissioner Askew questioned if there was a grandfather clause to this ordinance.

Mr. Cahoon stated there was not a grandfather clause.

Commissioner Askew stated there were a few residents currently living in camping trailers.

Mr. Cahoon stated they were trying to get those residents out of the camping trailers.

Commissioner Twine questioned if a port-a-john was an approved septic system.

Tommy Langston stated a temporary holding tank could be used as an approved system.

Commissioner Askew questioned if you lived out of the county and had a farm here, could you put the camper trailer here?

Mr. Cahoon responded you could put the camper trailer on your property but you could only stay in it 180 days per year unless you are in a trailer park. The purpose of getting a permit is to have a tracking system.

Commissioner Twine questioned what procedures needed to be followed to turn property into a trailer park.

Mr. Cahoon stated the property had to be re-zoned to RMH-1 and follow the zoning ordinance.

Chairman Pierce opened the Public Hearing regarding the amendment to the Note 7, Overnight Camping Trailer.

Paulette Wester stated she understood there is a law that states you cannot live in a camper trailer, then why is it still being done?

Mr. Cahoon responded Mrs. Wester could turn in a complaint. It just became illegal March 5, 2007. Currently the enforcement issue is also a budget issue; currently the county has one part-time code enforcement officer.

A citizen expressed their concern regarding abandoned mobile homes.

Mr. Cahoon responded there was a state program to assist with the removal of abandoned mobile homes.

A citizen also stated their concern for residents using camper trailers as a permanent residence because they could not afford other housing.

Mr. Cahoon stated that economic means was a Department of Social Services issue.

A citizen wanted to know if their interpretation was correct. You can own a camper trailer and have it on your property all year long, as long as you do not live in it.

Mr. Cahoon responded that was correct.

A citizen questioned if you could move a camper trailer for one weekend and then move it back.

Mr. Cahoon responded that was correct. He also stated there was a legitimate safety issue regarding camper trailers during hurricanes.

Mr. Jordan questioned how many times a temporary permit could be purchased.

Mr. Cahoon responded one permit could be purchased annually. If someone needs to appeal the 180 day limit, this could be done by paying the fee and going before the Board of Adjustments.

Citizens were questioning what the difference was in living in a camper trailer and having it stored in the yard and how could a camper trailer be tracked?

Mr. Cahoon stated it could be tracked because it had a license plate.

Chairman Pierce closed the Public Hearing.

Commissioner Nickens made a motion to adopt the overnight camping trailer ordinance as written. There was no second to the motion. The motion did not pass.

Justin Hembree, Interim County Manager, discussed the Proposed Ordinance Prohibiting Tobacco Use in Buildings Owned By or Leased to Gates County and Public Transportation Vehicles Owned By or Leased to Gates County. He stated this is a standard ordinance developed by the Department of Health and Human Safety. As required by the Board, an ordinance can be adopted after a public hearing is held. After tonight's public hearing, the Board can take action to approve the ordinance.

Chairman Pierce opened the Public Hearing.

A citizen stated the Commissioners had already passed an ordinance to prohibit smoking but would have a designated smoking area, then another ordinance was adopted to completely ban tobacco products, now you have another ordinance.

Mr. Hembree explained this ordinance codifies the policy the Board adopted and makes it more enforceable. The General Assembly just recently authorized counties to adopt ordinances like this. The legislation clarifies that counties have the authority to prohibit tobacco use within the buildings and vehicles and limit the use to within fifty (50) feet of all buildings except the Department of Social Services and the health department.

Mr. Jordan stated this ordinance clarifies that you can smoke within fifty (50) feet of certain buildings.

Woody Early, stated the county should provide some type of cover for those who wanted to smoke outside the buildings.

Paulette Wester stated all properties owned by the Gates County Board of Education were tobacco free.

Dan Bazemore stated he agreed with the tobacco issue and did it pertain to the Board of Education also.

Mr. Hembree stated county government in North Carolina is given power completely different than the public school system. Only recently was local government given this authority.

Chairman Pierce closed the Public Hearing.

Commissioner Nickens made a motion to accept the Proposed Ordinance Prohibiting Tobacco Use in Buildings Owned By or Leased to Gates County and Public Transportation Vehicles Owned By or Leased to Gates County. Commissioner Twine seconded the motion, motion passed without opposition.

The Ordinance Prohibiting Tobacco Use in Buildings Owned By or Leased to Gates County and Public Transportation Vehicles Owned By or Leased to Gates County reads as follows:

### **GATES COUNTY, NORTH CAROLINA**

#### **ORDINANCE PROHIBITING TOBACCO USE IN BUILDINGS OWNED BY OR LEASED TO GATES COUNTY AND PUBLIC TRANSPORTATION VEHICLES OWNED BY OR LEASED TO GATES COUNTY**

**Whereas**, tobacco use is the number one preventable cause of premature death in North Carolina and the Nation; and

**Whereas**, secondhand smoke has been proven to cause cancer, heart disease, and asthma in both smokers and nonsmokers; and

**Whereas**, the 2006 Surgeon General's Report on the health consequences of involuntary exposure to tobacco smoke states that the scientific evidence indicates that there is no risk-free level of exposure to secondhand smoke. The 2006 Surgeon General's Report documents that separating smokers from nonsmokers, cleaning the air, and ventilating smoke cannot eliminate exposure to secondhand smoke; and

**Whereas**, the Centers for Disease Control and Prevention advises all individuals with coronary heart disease or known risk factors for coronary heart disease should avoid all indoor environments that permit smoking; and

**Whereas**, exposure to secondhand smoke is expensive, costing the nation \$10 billion per year, \$5 billion in direct medical care costs and \$5 billion in indirect costs according to the 2005 Society of Actuaries; and

**Whereas**, the 2006 Surgeon General's Report documents that eliminating indoor smoking fully protects nonsmokers from exposure to secondhand smoke; and

**Whereas**, Gates County provides support to employees who want to quit the use of tobacco products. These employees are also encouraged to talk to their health care provider about quitting, ask about appropriate pharmacotherapy available through the County health insurance plan or employee's insurer, and use the free quitting support services of the North Carolina Tobacco Use Quitline at 1-800-QUIT-NOW (1-800-784-8669); and

**Whereas**, Gates County recognizes the health risks of tobacco use and secondhand smoke for nonsmokers. The County desires to minimize the harmful effects of tobacco use among its staff and to eliminate secondhand smoke exposure for staff and the public in those buildings controlled by the County;

**Now, therefore, be it ordained** by the Gates County Board of Commissioners:

**Section 1. Authorization**

This Ordinance is enacted pursuant to North Carolina General Statute 130A-498 as an exercise of the authority of the Board to regulate the use of County owned property and North Carolina General Statute 153A-121 as an exercise of the police power to protect, promote and preserve the public health, welfare and safety of:

- a. Citizens who use County owned buildings.
- b. Citizens who use buildings leased by the County as lessee (i.e. tenant) and occupied by the County.
- c. Citizens who use County owned or leased public transportation vehicles.
- d. County employees who work in County owned or leased buildings.
- e. County employees who use County owned or leased public transportation vehicles.

**Section 2. Definitions**

- a. "Grounds" – The area located within 50 linear feet of a building wherein a local health department or a local department of social services is housed.
- b. "Smoker" – A person who is smoking.
- c. "Smoking" – The use or possession of a lighted cigarette, lighted cigar, lighted pipe or any other lighted tobacco product.
- d. "Tobacco Products" – Any product that contains tobacco and is intended for human consumption.

**Section 3. Use of Tobacco Products is Prohibited in County Buildings and Public Transportation Vehicles**

Use of tobacco products is prohibited in all of the following:

- a. Buildings that are owned by Gates County.
- b. Buildings that are leased by Gates County as lessor (i.e. landlord).
- c. Buildings or areas of buildings that are leased by Gates County as lessee (i.e. tenant) and occupied by Gates County.
- d. Public transportation vehicles owned or leased by Gates County and used by the public.
- e. The grounds of any building housing one or more components of Gates County Health Department or the Gates County Department of Social Services.

**Section 4. Signage**

- a. Person in charge of buildings and/or grounds identified in Section 3 shall post signs at all entrances and exits to the buildings explaining the prohibition of tobacco use. Signs may be posted in other areas of the buildings as well. For example, signs may be posted in other areas in buildings where tobacco use is likely, such as bathrooms and dining area.
- b. Persons in charge of vehicles identified in Section 3 shall post signs in the vehicles explaining the prohibition. The signs must be displayed in areas where passengers will be able to see the signs but the placement of the signs must not interfere with the safe operation of the vehicles.
- c. The signs required by subsections a. and b. of this Section must use clear and unambiguous language to convey the prohibition. The signs may include language such as "Tobacco Free Building," "Tobacco Use Prohibited in this Building," "Tobacco Use Not Permitted in this Building," or "Tobacco Use Not Permitted in this Vehicle." If a sign includes the international "No Smoking and Smokeless Tobacco" symbol (which consists of a pictorial representation of a burning cigarette and smokeless tobacco product enclosed in a red circle with a red bar across it), it must include written text explaining the prohibition.
- d. Persons in charge of buildings and vehicles identified in Section 3 must determine whether signs should be posted in languages other than English.
- e. Persons in charge of buildings and grounds where tobacco use is prohibited by this Ordinance shall remove all publicly available ashtrays from the buildings and grounds.

**Section 5. Public Education**

The County Manager shall engage in a continuing program to explain and clarify the purposes and requirements of this Ordinance to citizens affected by it, and to guide compliance with it. The program may include publication of a brochure for affected persons explaining the provisions of this Ordinance.

**Section 6. Tobacco Use Permitted Outside Buildings**

Use of tobacco products is permitted outside the buildings identified in Section 3 except for the grounds of any building housing one or more components of Gates County Health Department or the Gates County Department of Social Services, provided that the persons who are smoking do not stand adjacent to a public entrance or air intake vent.

**Section 7. Enforcement Penalties**

- a. Employees – Employees who violate this Ordinance shall be subject to sanctions consistent with the County's personnel policies.
- b. The person in charge of a building or vehicle identified in Section 3 or his or her designee who sees an individual using a tobacco product (other than an employee) who is in violation of this Ordinance must ask the individual to stop using the tobacco product. If, after having been asked to stop using the tobacco product, the individual continues to use the tobacco product, he or she shall be in violation of this Ordinance. Violators of this Ordinance shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed \$500 in accordance with North Carolina General Statute 14-4(a).

**Section 8. Effective Date**

This Ordinance shall become effective upon the 21st day of July, 2008.

**Business**

Mr. Cahoon stated on June 17 the Planning Board decided to propose an amendment to the Zoning Ordinance: Horse issues in terms of acreage required per animal housed on land in Gates County. The proposal is to require two (2) acres of cleared pasture land per equine not including the one (1) acre for the house. Mr. Cahoon personally feels this is not appropriate.

Chairman Pierce opened the Public Meeting.

A citizen questioned how do you differentiate between a miniature, draft or full horse?

Mr. Cahoon replied there was no difference.

A citizen wanted to know what was the intent of the zoning?

Mr. Cahoon responded the Planning Board was responding to interest in the community.

Mary Lou Glennon, Zoning Enforcement Officer, responded the zoning issue regarding horses was for the public's health, safety, morals and general welfare. She read a letter from Dr. Peggy Ann Johnston stating that many questions need to be answered and issues addressed before adopting such an ordinance.

A citizen stated she owned one (1) acre of land and had a barn. She took out a loan to build the barn for horse rescue purposes. According to this zoning she would have to remove the barn because it is unusable and would reduce the property value. She gets calls daily from people to take their horses because they cannot afford to feed them. If an animal is abused then it is an Animal Control issue.

A citizen stated if flies were an issue with horses, then what about the lagoons for other animals?

Linda Sinclair commented her concerns had already been stated.

Doug Wagnor commented his concerns had already been stated; he scientifically and socially opposed the horse zoning issue.

Lulu Eure commented her concerns had already been stated.

Sheila Humes stated her concerns had already been stated. She also had a recommendation to reduce or eliminate the pasture size requirement and give the Animal Control Officer the legal authority to set the space requirements and other requirements that are necessary.

Rebecca Parker stated she had a petition containing 224 signatures from citizens feeling the two (2) acre requirement per horse was unfair.

Margaret Horton stated why would it be fair for the Commissioners to pass this ordinance and she would have to move her horses that are completely being cared for. After she cleared 30 acres of land, the site would still be surrounded by wooded property. She would have to relocate her horses five (5) miles from her home. What about the safety of her horses? A hunter could shoot through the woods and hit one of her horses. She would not know it until several hours later. Is this zoning fair to the animals?

Chairman Pierce opened the Public meeting to Animal Control concerns.

Lacy Wilkins, Animal Control Officer, spoke about the Animal Control Ordinance she has presented to the Commissioners, covering the health and well-being of the animals. A state law requires all pets to have a rabies shot administered by a licensed veterinarian. Cats are excluded from wearing a collar/tags. In reference to hunting dogs, the owners will be in compliance as long as they can supply a copy of the rabies vaccination certificate.

A citizen asked what is the definition of sufficient shelter for a dog?

Mrs. Wilkins responded proper shelter protects the animal from weather and adverse conditions.

A citizen questioned the noise from animals.

Mrs. Wilkins responded a noise ordinance was already in place.

Dan Bazemore responded he had a copy ordinances from Animal Control and the Planning Board. There seems to be conflicting regulations. There should be cross-referencing between ordinances.

Steven Wall, had already addressed his question but had a question regarding Section 364, Item C, Cruelty to Animals.

Mrs. Wilkins responded there was a typographical error at that point.

John Garlow voiced his concern regarding who is going to make the decision if an animal is being abused. Is it going to be Mrs. Wilkins or a veterinarian to come onto your property to seize an animal?

Chairman Pierce responded if you love your animal your animal is taken care of it there will not be an issue. The concern here is to make sure all animals are being cared for properly.

Mrs. Wilkins introduced Lisa Dennis with the United States Equine Rescue League. Mrs. Wilkins stated she was also a certified investigator through the Rescue League to go out and investigate horses.

Ms. Dennis stated Mrs. Wilkins has gone through extensive training to be able to monitor and detect an abused horse situation. The Rescue League will come out and pick up a horse, put it in a quarantine facility and maintain it until the court decides the issue at no cost to the county. If a horse is put up for adoption, there is a small adoption fee. The adoption fee does not nearly cover the cost of rehabilitation of the animal.

Paulette Wester stated this is very much needed because we have problems with all kinds of animals. She also wanted clarification on Section 3-67 Animals creating nuisance prohibited. The ordinance states the nuisance animals must be seen by an officer. Is an officer going to sit on my deck all night? The wording/typing of the ordinance needs to be reviewed and corrected.

Brian Clark stated his concerns had already been voiced.

George Fulcher questioned what action needs to be taken regarding an abused horse near him but in Virginia.

Mrs. Wilkins responded the Rescue League is the United States Rescue League, they have no state boundaries. Call her at any time to assess an animal.

Rebecca Parker questioned how do the citizens identify an authorized person?

Mrs. Wilkins stated she will always have a badge and the Rescue League will not go on someone's property without an officer.

A citizen had a concern regarding abandoned hunting dogs.

Mrs. Wilkins responded to call her and she would pick up the dogs.

A citizen wanted to know if the Board was going to adopt the ordinance tonight.

Mr. Hembree stated a specific process had to be followed. There are to be two (2) readings of the ordinance and an advertized public hearing. The Board is unable to adopt this ordinance tonight. Just because it is not being adopted tonight does not give anyone the right to neglect or abuse an animal. Mrs. Wilkins is a sworn officer and will be able to process violators.

Dan Bazemore stated the meeting had been very well conducted. The public asked questions and got answers. He has a recommendation to the ordinance. He requests the ordinance affect cats the same as dogs in regard to wearing collars and tags.

John Taylor Kitrell stated we do need an Animal Control Ordinance. There is some vagueness in the current writing. He had a concern with the lack of a noise ordinance. He suggested the county have a concise ordinance and not leave too much to the discretion of the enforcing officer.

Lulu Eure had a concern if there are mistreated goats and/or cows. An ordinance is needed for all animals. There are many other factors to be considered; how Mrs. Wilkins will pick up animals and where they will be housed.

Commissioner Nickens made a motion to do away with the two (2) acre per horse requirement in regards to zoning and we need a stronger Animal Control Ordinance. Commissioner Twine seconded the motion, motion carried without opposition.

Commissioner Pierce recessed the meeting until Tuesday, July 22, 2008 at 12:45 pm in the County Commissioners' Room.