
**Camden County Board of Commissioners
Regular Meeting
March 21, 2011
7:00 P.M. - Regular Meeting
Historic Courtroom, Courthouse Complex
Camden, North Carolina**

MINUTES

The regular meeting of the Camden County Board of Commissioners was held on Monday March 21, 2011 in the Historic Courtroom, Camden, North Carolina. The following Commissioners were present:

Chairman Sandra Duckwall,
Vice Chairman Garry Meiggs, & Commissioners Randy Krainiak, Clayton Riggs, and
Michael McLain.

Also attending were County Manager Randell Woodruff, Clerk to the Board Ashley R. Honaker, and County Attorney John Morrison. Present for purposes of making a presentation(s) or providing supporting information for agenda items were the following persons: Dan Porter, Director of Planning, Shana Trafton, Senior center, Mark Powell, Cooperative Extension Office, Mary Gaskins, Tax Administrator, Candy Sawyer, Tax Specialist, Ed Staye, Turner Business Appraisers, and Bart McLain, Xe LLC Attorney.

Chairman Sandra Duckwall called to order the March 21, 2011 meeting of the Camden County Board of Commissioners at 7:02 PM.

Invocation and Pledge of Allegiance

Commissioner Michael McLain gave the invocation and led those present in the Pledge of Allegiance.

Public Comments –

- Davis Burgess Sr. - 126 Run Swamp Rd., Camden, NC- Mr. Burgess expressed his concern for the upcoming 2011 Fiscal year budget cuts to the school system, as well as concern that the Garrington Island boat ramp project be completed.

Consideration of Agenda

Chairman Duckwall amended the agenda by adding Dismal Swamp Welcome Center Director Penny Leary-Smith as a speaker following the Consideration of the Agenda.

Commissioner Michael McLain made a motion to approve the agenda as amended. At 7:07PM, the motion passed 5-0 with Chairman Sandra Duckwall, Vice Chairman Garry Meiggs, and Commissioners Michael McLain, Randy Krainiak, and Clayton Riggs voting aye; no Commissioner voting no; **No Commissioners** absent; and no Commissioner not voting.

Presentation

Dismal Swamp Welcome Center Director Penny Leary-Smith came before the Board to give a small presentation to the accord of her impending retirement from the Camden County system. Mrs. Leary-Smith asked the Board to remember that Green Living and Tourism are vital to the County, and she felt very blessed to work for Camden County, and be a part of the addition of the State Park complex.

Old Business

Item 3.A. – French West Vaughn Service Agreement

County Manager Randell Woodruff reported the following:

- Presented service agreement is a fee reduction from the previous service agreement
- Previously, the County contributed half of \$6,000 to FWV per month.
- Current presented service agreement requesting half of \$4,000 to FWV per month.
- FWV & Poyner Spruill have 100% kept the OLF from coming to Camden County
- FWV took the OLF issue to a larger scale by having it covered by media outlets all over the State and in Virginia
- This is only a 6 month agreement. The current agreement expires June 30th, 2011.

Commissioner McLain expressed concern with the spending of funds on the OLF issue when the Navy has put the OLF in Camden on hold.

Vice Chairman Garry Meiggs responded by reminding the Board and those in attendance that State policy makers- Senators, Governor, Representatives- have all expressed that with the Navy backing down from OLF litigation, while Camden can now relax somewhat, it is also important to continue the fight.

Commissioner McLain moved to table the issue until the April 4, 2011 meeting, in order to have more time to consider the contract. At 7:21PM, the motion passed 5-0 with Chairman Sandra Duckwall, Vice Chairman Garry Meiggs, and Commissioners Michael McLain, Randy Krainiak, and Clayton Riggs voting aye; no Commissioner voting no; No Commissioners absent; and no Commissioner not voting.

Item 3.B. Ordinance Number 2011-01-02- Rezoning Application Camden County (UDO 2010-10-04); Eco Business Park

Planning Director Dan Porter presented the following information:

- Presenting revised version of the Permitted and prohibited uses for the Camden County Eco Business/Industrial Park
- The differences between the list in the board packet and the list provided in hand is that the one in the Board packet states “The only uses permitted...”, while the newest version presented in hand states “The following uses shall be permitted...”
- The phrase ‘Environmental Excellence’ on line 52 of the ordinance is a term used for maximum flexibility.
- At some point, the Eco Park will have a lot of jobs, and with that a lot of pedestrian traffic; Restaurants such as café’s, not fast food drive thrus, with eventually be needed.
- Anyone who wishes to build or lease property in the Park must go through an approval process with The Board.

Chairman Duckwall expressed concern over Line 51 of the Ordinance, “Traditional commercial and office uses where business facilities...”.

Commissioner Riggs agreed, and explained that through discussion with Dan Porter, it is understood that the word ‘and’ in Line 51 is used to say that any design has to be followed as presented.

Commissioner McLain expressed a grammatical error on number 6 of the listed permitted uses; “... pharmaceutical efforts of region” needs to be changed to “... pharmaceutical efforts of the region”.

Vice- Chairman Meiggs expressed his continued concern with number 7 of the list of permitted uses; “Limited retail, lodging, and recreational...”. He stated he was concerned that the County received Granted moneys under the stipulation of strict

'Green' uses inside the Park, and he did not wish to go against the integrity of those Granted moneys.

Commissioners Riggs suggested striking number 7 off the list of permitted uses from the list.

Dan Porter explained that if something is not listed, it is automatically not permitted. This was confirmed by County Attorney John Morrison.

Commissioner McLain made a motion to adopt the ordinance with the grammatical change, and with the striking of item number 7 of the permitted uses, with the understanding that an amendment can be made to the ordinance at The Boards discretion. At 7:34PM, the motion passed 4-0 with Chairman Sandra Duckwall, Vice Chairman Garry Meiggs, and Commissioners Michael McLain, and Clayton Riggs voting aye; Commissioner Randy Krainiak voting no; No Commissioners absent; and no Commissioner not voting.

Item 3.C. - Ordinance NO. 2011-01-01 (UDO 2010-108-01); Rezoning Application; Elsie G. Hollowell-Pugh

Planning Director Dan Porter reported that this application was for a rezoning of property on Shipyard Road, and that a public hearing was held on February 21, 2011.

Commissioner Clayton Riggs made a motion to rezone the Pugh property from an R3-2 to and R3-1 zoning.

Commissioner McLain expressed that after a lot of reflection, he did not feel that this rezoning was in the right place or at the right time.

At 7:37PM, the motion made by Commissioner Clayton Riggs passed 3-0, with Chairman Sandra Duckwall, Vice Chairman Garry Meiggs, and Commissioner Clayton Riggs voting Aye; Commissioners Michael McLain and Randy Krainiak voting No; No Commissioners absent; and no Commissioners not voting.

Consent Agenda

Item 5. (A-J)

Chairman Sandra Duckwall made an amendment to the Consent Agenda, adding the Maximum Lot Coverage by Impervious Surfaces to item 5.I.

Vice Chairman Garry Meiggs made a motion to approve the Consent Agenda as amended. At 7:39 PM, the motion passed 5-0 with Chairman Sandra Duckwall, Vice Chairman Garry Meiggs, and Commissioners Michael McLain, Randy Krainiak, and Clayton Riggs voting aye; no Commissioner voting no; No Commissioners absent; and no Commissioner not voting.

Consent Agenda

A. Draft Minutes – February 21, 2011

B. Budget Amendments 2010-11-BA032 through 2010-11-BA035

**2010-11-BA-032
CAMDEN COUNTY BUDGET AMENDMENT**

BE IT ORDAINED by the Governing Board of the County of Camden, North Carolina that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2011

Section 1. To amend the South Mills Fire District as follows:

ACCT NUMBER	DESCRIPTION OF ACCT	AMOUNT	
		INCREASE	DECREASE
Expenses:			
415300-517000	Vehicle Maintenance	\$4,000.00	
415300-536000	Uniforms	\$2,000.00	
415300-564108	Grant	\$2,650.00	
415300-574099	Site Prep	\$51,350.00	
415300-599900	Fund Reserves		\$50,000.00

Approved at Fire Commission Meeting

Section 2. Copies of this budget amendment shall be furnished to the Clerk to the Governing Board, and to the Budget Officer and the Finance Officer for their direction. Adopted this 21st day of March, 2010.

Clerk to Board of Commissioners

Chairman, Board of Commissioners

2010-11-BA033
CAMDEN COUNTY BUDGET AMENDMENT

BE IT ORDAINED by the Governing Board of the County of Camden, North Carolina that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2011

Section 1. To amend the Tourism Development Authority Fund **as follows:**

ACCT NUMBER	DESCRIPTION OF ACCT	AMOUNT	
		INCREASE	DECREASE
Expenses:			
465200-545016	Trail Connector Funding	\$12,000.00	
154200-599900	Fund Reserves		\$12,000.00

At 2/15/11 TDA meeting approved of this expenditure and budget amendment.

Section 2. Copies of this budget amendment shall be furnished to the Clerk to the Governing Board, and to the Budget Officer and the Finance Officer for their direction. Adopted this 21st day of March, 2010.

Clerk to Board of Commissioners

Chairman, Board of Commissioners

2010-11-BA034
CAMDEN COUNTY BUDGET AMENDMENT

BE IT ORDAINED by the Governing Board of the County of Camden, North Carolina that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2011

Section 1. To amend the General Fund as follows:

ACCT NUMBER	DESCRIPTION OF ACCT	AMOUNT	
		INCREASE	DECREASE
Expenses:			
104800-552002	Domestic Violence	\$ 3,000.00	
105100-565000	Children's Christmas Fund	\$ 188.00	
105450-504004	Professional Services	\$24,429.00	
109990-500000	Contingency		\$18,221.00
Revenues:			
10385510-434865	Sheriff Christmas Fund	\$...188.00	
10320480-435601	Marriage License	\$3,000.00	
10350400-438100	Leased Property	\$6,208.00	

This will result in a decrease of \$0.00 in the Contingency of the General Fund.

Balance in Contingency \$\$473.00.

Section 2. Copies of this budget amendment shall be furnished to the Clerk to the Governing Board, and to the Budget Officer and the Finance Officer for their direction. Adopted this 21st day of March, 2010.

Clerk to Board of Commissioners

Chairman, Board of Commissioners

2010-11-BA035
CAMDEN COUNTY BUDGET AMENDMENT

BE IT ORDAINED by the Governing Board of the County of Camden, North Carolina that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2011

Section 1. To amend the Social Services Fund as follows:

ACCT NUMBER	DESCRIPTION OF ACCT	AMOUNT	
		INCREASE	DECREASE
Expenses:			
528000-520000	Crisis Intervention	\$3,262.80	
528000-510000	Foster Care Training	\$1,860.000	
Revenues:			
52330610-434819	Crisis Intervention	\$3262.80	
52360610-434846	Foster Care Training Grant	\$1,860.00	

Additional Allocation and grant funds received.

Section 2. Copies of this budget amendment shall be furnished to the Clerk to the Governing Board, and to the Budget Officer and the Finance Officer for their direction. Adopted this 21st day of March, 2010.

Clerk to Board of Commissioners

Chairman, Board of Commissioners

- D. Letter of Support for Jerry L. Old for NC Board for Transportation.
- E. National County Government Month Resolution
- F. 2010 Advertisement of Tax Liens of Real Property
- G. Electronics Recycling Grant
- H. Set Public Hearing; Special Use Permit (UDO 2011-02-1)- Combination Use (Frog Island Seafood/ Boarding House)
- I. Set Public Hearing; Ordinance No. 2011-01-01; Amendment to Chapter 151 (Unified Development Ordinance) of the Code of Ordinances.
- J. Register of Deeds Cott Systems Contract

Item 6(A-E) Board Appointments

- A. ABC Board- Reappointment of Wayne Walston.

Vice Chairman Garry Meiggs made a motion to reappoint Wayne Walston to the ABC Board. The motion passed 5-0, with Chairman Sandra Duckwall, Vice Chairman Garry Meiggs, and Commissioners Michael McLain, Randy Krainiak, and Clayton Riggs voting aye; No Commissioners voting no; No Commissioners absent; No Commissioners not voting.

- B. Albemarle Commission- Replacement of Ronald Price.

Commissioner Riggs explained that it is not Camden Counties turn in rotation to appoint or reappoint their citizen representative.

Item B was struck from the agenda.

- C. Northeast Workforce Development Commission.

Chairman Duckwall announced that the vacancy was for a business owning Camden citizen, and that volunteer forms were currently being accepted.

- D. Planning Board- Reappointment of Rodney Needham and Calvin Leary

Vice Chairman Garry Meiggs made a motion to reappoint Mr. Needham and Mr. Leary to the Planning Board. At 7:45PM, the motion passed 5-0, with Chairman Sandra Duckwall, Vice Chairman Garry Meiggs, and Commissioners Michael McLain, Randy Krainiak, and Clayton Riggs voting aye; No Commissioners voting no; No Commissioners absent; No Commissioners not voting.

- E. Board of Adjustments

Commissioner Riggs made a motion to reappoint all members of the Board of Adjustments. At 7:46PM, the motion passed 5-0, with Chairman Sandra Duckwall, Vice Chairman Garry Meiggs, and Commissioners Michael McLain, Randy Krainiak, and Clayton Riggs voting aye; No Commissioners voting no; No Commissioners absent; No Commissioners not voting.

New Business

New Business

Item 7. A-D Xe Services LLC Appeal; Presentation by Shana Trafton of the Senior Center; Presentation by Mark Powell of the Extension Center; Proposal Amendment to Engagement with Poyner Spruill.

Item 7.A

Camden County Tax Administrator explained that the County had discovered unpaid personal property tax for Xe Services.

County Attorney John Morrison explained further that newly discovered aircraft with a tax base of approximately \$3 Million had been found in Xe's possession. The way the proceeding would be conducted would be that Xe representatives would state their case first, followed by Camden County and their Auditing service representatives, then allowing Xe to make final comments.

Xe's Attorney Bart McLain expressed the following

- There is an unpaid tax liability by Xe LLC
- \$3 Million number is an inflation
- What must be looked at is situs and property value
- Stated that he was following the NC Machinery Act
- Request before the Board for additional time
 - Between 2008 & 2010 Xe owned 55 aircraft
 - Still trying to find where each individual aircraft was at what time
- Request for additional 3 months to find substantial information to give the Board
- Provided the Board with a handout showing current findings, with a list of aircraft, years 2008-2010, and "C" indicating an aircraft being in Camden County in that year where the tax has not been made. (Handout is available in the Camden County Office's for review)
- In January 2011, requested a continuation for further research to have until April 2011
- Request was denied, spoke with Ed Staye from Turner Business Associates

County Attorney John Morrison explained that the Board now has to vote on the appeal first.

Chairman Sandra Duckwall asked Ed Staye how much time Xe Services LLC had had, and was that time sufficient.

Ed Staye expressed that Turner Business Associates began their audit in June 2010, with the Tax Assessors Conference in December 2010, where an open items list was constructed and provided to Michelle Williams of Xe Services. Stated that in his professional opinion that Xe Services was provided with sufficient time.

Commissioner Randy Krainiak asked County Attorney what the worst case scenario would be.

County Attorney John Morrison explained that the tax delinquencies would continue to rise and collect interest.

Tax Administrator Mary Gaskins explained that Xe Services was already granted one extension on top of the extension requested this evening.

Commissioner Michael McLain made a motion to deny the appeal by Xe Services LLC for more time, and move forward with the board of adjustments and appraisal hearing. The motion passed 3-2, with Vice Chairman Garry Meiggs, and Commissioners Randy Krainiak and Michael McLain voting aye; Chairman Sandra Duckwall and Commissioner Clayton Riggs voting no; No Commissioners absent; No Commissioners not voting.

County Attorney John Morrison explained that now the floor would go back to the tax payer, followed by the County tax department.

Vice Chairman expressed that, if it is known that Xe owes the tax on the property on the list provided by Xe Services, could a compromise be made that an extension on other aircraft not found yet be made, but the listed aircraft tax be paid.

Xe Attorney Bart McLain stated that it is not his position or in his power to agree upon that.

Chairman Sandra Duckwall recessed the meeting for 5 minutes at 8:22PM.

Chairman Sandra Duckwall called the meeting out of recess at 8:32PM.

Xe Services Attorney Bart McLain came before the board and expressed the following:

- Request that the auditors remove those aircraft that did not have a situs in Camden County on January 1st of the year at issue

County Attorney John Morrison now asked that the Board hear from the representatives from the County tax department. Mr. Morrison restated the request from Mr. McLain of Xe. Services, and asked Mr. Ed Staye would he agree to it.

Ed Staye, Turner Business Associates- 12332 Chesley Dr, Charlotte, NC-

- Would not agree to the request
- Referenced court case between Southern Pacific Company VS the State of Kentucky: indicative fact that the ships were from Kentucky, with no other tax being paid on those ships in any other state.

John Morrison asked Mr. Staye what evidence is available that that case would be applicable to Xe Service VS Camden County; were the tax payers incorporated in North Carolina or did they get authorization to do work in North Carolina by the Secretary of State?

Ed Staye expressed that Xe Services owned subsidiaries that owned the aircraft in question, which either incorporated in NC or given permission to do business in NC by the Secretary of State..

Mr. Morrison explained that in the aforementioned case no tax was being paid to any other tax collecting establishment; Mr. Morrison asked Mr. Staye if they had requested information from the tax payer on where they paid taxes for the aircraft somewhere else.

Mr. Staye expressed that they had requested that information. Mr. Staye noted that they had not received any information back from Xe Services.

Mr. Morrison asked if TBA had provided the tax payer with an itemized list of personal property and unpaid tax assessment. Mr. Staye expressed that yes, the tax bill had been provided to Xe Services. Mr. Morrison asked what the tax bill expressed; Mr. Staye stated that the tax payer was billed for roughly \$2.9 Million.

Mr. Morrison questioned Mr. Staye on the type and extent of work performed on this audit to retain the information provided.

Mr. Ed Staye stated that him and his colleague performed many hours of extensive research, searches based on FAA site that indicated the registered owners of aircraft and helicopters, allowing TBA to identify that Aviation World Wide Services were the owner, or BP Aviation, & LIC, as well as Xe Services providing information, their depreciation schedule,

County Attorney John Morrison continued with the following questions for Ed Staye of Turner Business Associates:

- Your employer is Turner Business Associates?
- Where are they located
- Who worked on the Xe Services Audit?
- How many man-hours were put into this audit?
- How old is TBA?
- How many audits has TBA preformed?
- What is your education background?
- How long have you worked for TBA

Ed Staye responded to the questions with the following, respectively:

- Yes
- Charlotte, NC
- I did, with the assistance of my colleague
- Approximately 3-4 weeks
- 10 Years old, TBA has worked for 8 NC counties.
- TBA has performed 2,000 – 3,000 audits
- Has an undergraduate degree in Business from Brown, a Masters in Accounting, and Certified CPA in NC.

Mr. Morrison then informed Xe services Attorney Bart McLain that he could ask Mr. Staye questions if he wished.

Mr. Bart McLain asked Mr. Staye if any adjustments had been made to any of the information provided to him or to the Board.

Mr. Staye explained that Yes, attachments Q & T of the handout in the Boards packets had been updated.

Chairman Sandra Duckwall recessed the Board for the sake of providing Mr. Bart McLain with a copy of the handout from Turner Business Associates at 9:00PM

Chairman Sandra Duckwall reconvened the Board Meeting at 9:09PM.

Xe services Attorney Bart McLain expressed that he would like to renew his request for an extension of 3 months. He would also like to request that the Board instruct the auditors to make the appropriate adjustments to their audit findings to reflect those aircraft which were located in Baghdad, Afghanistan, and Africa during the audit years.

The Board showed no support for the renewed request for a continuance.

Mr. Morrison questioned Mr. Staye on his position on whether an adjustment to his audit to reflect those aircraft located in Baghdad, Afghanistan and Africa during the audit years should be done. Mr. Staye stated that it was TBA's position that the adjustment should not be done.

Mr. Morrison explained that it is now at the Boards discretion to deny or accept the tax statement provided by the Camden County Tax Department.

Commissioner Michael McLain made a motion to accept the tax bill as presented by the tax department. At 9:12PM, the motion passed 5-0, with Chairman Sandra Duckwall, Vice Chairman Garry Meiggs, and Commissioners Michael McLain, Randy Krainiak, and Clayton Riggs voting aye; no Commissioners voting no; no Commissioners absent; no Commissioners not voting.

Item 7.B & C

Due to time limitations, Chairman Sandra Duckwall excused Shana Trafton and Mark Powell, and rescheduled their presentations for the next Board of Commissioners Meeting, on Monday, April 4, 2011.

Item 7.D

County Manager Randell Woodruff reported that the provided service agreement with Poyner Spruill was an updated version of the current agreement shared by Camden and Currituck Counties. There is an amendment to the fees. This is a reduction similar to the aforementioned French West Vaughn service agreement.

Vice Chairman Garry Meiggs made a motion to approve the amended Service Agreement with Poyner Spruill. At 9:15PM, the motion passed 5-0, with Chairman Sandra

Duckwall, Vice Chairman Garry Meiggs, and Commissioners Michael McLain, Randy Krainiak, and Clayton Riggs voting aye; No Commissioners voting no; No Commissioners absent; No Commissioners not voting.

Commissioner's Report

Nothing Reported.

County Managers Report

County Manager Randell Woodruff reported the following information:

- Provided by hand is the 1st Edition of the Quarterly Camden County newsletter. The newsletter was developed and constructed by Ashley Honaker, Clerk to the Board.
 - Reminder: The Camden County Board of Commissioner's Retreat will be this Thursday and Friday, March 24th & 25th.
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South Camden Water & Sewer District Board of Directors

Chairman Sandra Duckwall moved to recess the Board of Commissioners meeting and enter into the South Camden Water & Sewer District Board of Directors meeting at 9:22PM.

Commissioner Michael McLain made the motion to approve the consideration of Agenda Amendments. At 9:22PM, the motion passed 5-0 with Chairman Sandra Duckwall, Vice Chairman Garry Meiggs and Commissioners Michael McLain, Randy Krainiak, and Clayton Riggs voting aye; no Commissioner voting no; no Commissioner absent; and no Commissioner not voting.

Commissioner Riggs made the motion to approve the consent agenda. At 9:23PM, the motion passed 5-0 with Chairman Sandra Duckwall, Vice Chairman Garry Meiggs and Commissioners Michael McLain, Randy Krainiak, and Clayton Riggs voting aye; no Commissioner voting no; no Commissioner absent; and no Commissioner not voting.

Old Business

No Old Business

New Business

David Credle presented a draft copy of the impending Cross Connection Ordinance for Camden County. This will help in preventing contamination of local water sources.

Vice Chairman Garry Meiggs made a motion to approve the Cross Connection Ordinance. At 9:26PM, the motion passed 5-0 with Chairman Sandra Duckwall, Vice Chairman Garry Meiggs and Commissioners Michael McLain, Randy Krainiak, and Clayton Riggs voting aye; no Commissioner voting no; no Commissioner absent; and no Commissioner not voting.

Re-convene Commissioners meeting

No other Questions or Comments. The South Camden Water & Sewer District Board of Directors meeting adjourned at 9:26PM.

Any other Questions?

None.

Meeting Adjourned

At 9:27 P.M., Chairman Sandra Duckwall asked if there were any other matters to come before the Board of Commissioners, hearing none, she declared the meeting adjourned.

Chairman Sandra Duckwall
Camden County Board of Commissioners

ATTEST:

Ashley Honaker
Clerk to the Board