

BOARD OF GARRETT COUNTY COMMISSIONERS
PUBLIC MEETING
June 26, 2012

IN ATTENDANCE

Chairman James M. Raley
Commissioner Gregan T. Crawford
Commissioner Robert G. Gatto

County Administrator R. Lamont Pagenhardt

Prior to the Call to Order of the Public Session the Board of County Commissioners met with John Nelson, Director, Department of Planning and Land Development to discuss direction on how to proceed with the formal public hearing process for the adoption of the Draft Land Use Ordinance. This matter will be discussed publically on this date. No decision was finalized by the Board prior to the Public Meeting Session on this matter.

PUBLIC SESSION

CALL TO ORDER OF PUBLIC SESSION

PRAYER & PLEDGE OF ALLEGIANCE

1. Additions/deletions to the public meeting agenda. Mr. Pagenhardt indicated there were no additions and 1 deletion to the Public Meeting Agenda for June 26, 2012. The public session with Sheriff Robert Corley to review the Inmate Work Program will be postponed until July 3, 2012. The Board of County Commissioners, on a motion by Commissioner Crawford, which was seconded by Commissioner, Gatto, and made unanimous by Chairman Raley, approved the Public Meeting Agenda for June 26, 2012. Mr. Pagenhardt also noted matters to be discussed during the administrative session.
2. The Board of County Commissioners, on a motion by Commissioner Gatto, which was seconded by Chairman Raley, and made unanimous by Commissioner Crawford, approved the Public Meeting Minutes for June 5, 2012 and Executive Session Minutes of June 5, 2012.
3. The Board of County Commissioners presented an overview of board, committee, and commission meetings they have attended individually and as a Board.
4. The Board of County Commissioners met with John Nelson, Director, Department of Planning and Land Development to address and discuss the following issues. Gorman Getty, County Attorney was also in attendance for this session.
 - a) The Board decided to proceed with the formal public hearing process for the adoption of the Draft Land Use Ordinance. Mr. Nelson reviewed the legal process for this process which is as follows:

Pursuant to section 3.06 of Article 66B, when a local jurisdiction first adopts zoning powers, the Planning Commission is responsible to recommend the boundaries of the original districts and appropriate regulations to be enforced in those districts. - This

procedure would be best accomplished by referring the draft ordinance together with a directive from the Board of County Commissioners to the Planning Commission directing the Commission to prepare a "preliminary report" regarding the recommended boundaries and whether the draft regulations within those boundaries are appropriate.

Under this same section of 66B, the Planning Commission is required to hold at least one public hearing on the preliminary report before submitting its final report on the map and regulations to the local governing body.

Following receipt of the Planning Commission's Final Report, the Board may wish to make further modifications to the draft. Once the final draft is complete it can then be published once again and at least one public hearing on the draft regulations would need to be scheduled and conducted. Public notice of the hearing must be made at least 14 days in advance of the hearing

Pursuant to section 4.04 of Article 66B, following the public hearing the Board may adopt the regulations and the ordinance can be effective 10 days following the public hearing.

- *Commissioner Crawford voiced his opinion on what he termed as a need for the Board of County Commissioners to proceed with the public commentary and move the formal process to the Planning Commission.*
- *Commissioner Gatto stated that he thought the Draft Ordinance was too far reaching and focused almost entirely on wind generation and therefore he was not in favor of proceeding with the review and approval process.*
- *Chairman Raley expressed his thoughts on property rights and stated that he wanted to convey to the State of Maryland Legislature to get serious about legislation that would address land use issues that are contained in the Draft Land Use Ordinance. He cannot advance the Draft Land Use Ordinance and he wanted to make one last effort at the State Level.*

Commissioner Crawford entered a motion to forward the Draft Land Use Ordinance to the Planning Commission to initiate the prescribed process. The motion did not receive a second and therefore did not move to a vote of action.

Commissioner Gatto entered a motion to not forward the Draft Land Use Ordinance to the Planning Commission. The motion did not receive a second and therefore did not move to a vote of action

Chairman Raley entered a motion to table forwarding the Draft Land Use Ordinance to the Planning Commission until the Board of County Commissioners can schedule time with the Garrett County Delegation to the Maryland General Assembly in an attempt to address land use matters (i.e. permitting for natural gas drilling and commercial wind generating structures). Commissioner Crawford seconded the motion so that the matter could move forward to discussion. After dialog on the motion by all 3 Board Members, a vote on the motion was taken which did not receive a second; therefore, the motion did not move to a vote of action.

- b) The Board approved Chairman Raley to execute a Finding of Facts specific to approval of an Amendment to the Deep Creek Watershed Zoning Ordinance that was approved on May 31, 2012. Copy of all documentation is attached to these Public Meeting Minutes.
5. The Purchasing Department presented the following recommendations of bid award and contract extensions to the Board of County Commissioners:

Recommendation of Bid Award

- a) Hot Mix Asphalt (bid #12-0531HM). The Board, on a motion by Commissioner Crawford, which was seconded by Chairman Raley, and made unanimous by Commissioner Gatto, approved an award to Keystone Lime Company, Inc. and Belt Paving, Inc. based on specific location of project and mix specification. This documentation is on file with the Purchasing Department.
- b) Fuel Bid (bid # 12-0607FO). The Board, on a motion by Commissioner Crawford, which was seconded by Commissioner Gatto, and made unanimous by Chairman Raley, approved an award to Oakland Oil Company for a specified price for a number of products. This documentation is on file with the Purchasing Department.
- c) Filters (bid #12-0531F). The Board, on a motion by Chairman Raley, which was seconded by Commissioner Crawford, and made unanimous by Commissioner Gatto, approved an award to Lakeview Auto Parts. Specific filter number and assigned price on file with the Purchasing Department.
- d) Custodial Cleaning and Paper Products (bid # 12-0517CC). The Board, on a motion by Commissioner Crawford, which was seconded by Commissioner Gatto, and made unanimous by Chairman Raley, approved an award to Janitor Supply Company, A.D. Naylor's, Pyramid School Products, Calico Industries, Inc., Central Poly Corporation, AF Welding, Inc., Mark IV Office Supply, Interboro Packaging Corp., and All American Poly for a specified price for a number of products. This documentation is on file with the Purchasing Department.
- e) Motor Oil and Grease (bid #012-0607MO). The Board, on a motion by Commissioner Crawford, which was seconded by Commissioner Gatto, and made unanimous by Chairman Raley, approved an award to PPC Lubricants for a number of products and specific price. This documentation is on file with the Purchasing Department.
- f) Office Furniture (bid #12-0524F). The Board, on a motion by Commissioner Gatto, which was seconded by Commissioner Crawford, and made unanimous by Chairman Raley, approved an award to Douron, Inc. Accepted discount on all purchases from Hon Manufacturers price list is 57.3%.
- g) Thayerville Water System Contract #1. The Board, on a motion by Commissioner Crawford, which was seconded by Commissioner Gatto, and made unanimous by Chairman Raley, approved an award to Excavating Associates, Inc. for a total bid price for Section D of \$3,685,659.00 with a requirement to reject all bids under Sections A,B, and C.
- h) Thayerville Water System Contract #2. The Board, on a motion by Commissioner Gatto, which was seconded by Commissioner Crawford, and made unanimous by Chairman Raley, approved an award to Frank Arnold Contractors Inc. for a total bid price of \$791,235.00.

Contract Extensions

- a) Culvert Pipe (bid #11-0602C). The Board, on a motion by Commissioner Crawford, which was seconded by Commissioner Gatto, and made unanimous by Chairman Raley, approved a contract extension to Chemung Supply Corporation and HD Supply

Waterworks. Specific pipe description and assigned price are on file with the Purchasing Department.

- b) Request for Proposals – Actuarial Consulting Services (RFP #9-09-0818). The Board, on a motion by Commissioner Gatto, which was seconded by Chairman Raley, and made unanimous by Commissioner Crawford, approved a contract extension to CBIZ Benefits & Insurance Services, Inc. for a total contract price of \$6,000.
- c) Bond Counsel Services (RFP #08-0603BC). The Board, on a motion by Commissioner Crawford, which was seconded by Commissioner Gatto, and made unanimous by Chairman Raley, approved a contract extension to McKennon, Shelton & Henn, LLP for contract amount of \$31,000 for Fiscal Year 2013.
- d) Request for Proposals – Investment Services – Garrett County Government and Law Enforcement Personnel Retirement Plans (RFP #09-0527). The Board, on a motion by Commissioner Crawford, which was seconded by Chairman Raley, and made unanimous by Commissioner Gatto, approved a contract extension to First United Bank & Trust. Specific contract rates are based on basis points and market value of the retirement plans and specific documentation is on file with the Purchasing Department.
- e) Request for Proposals – Inmate Care Services (RFP #09-1103). The Board, on a motion by Commissioner Gatto, which was seconded by Commissioner Crawford, and made unanimous by Chairman Raley, approved a contract extension to Conmed, Inc. for \$225,926.40 plus per diem rate based on inmate population.
- f) Inmate Dental Services (Contract 11-1001). The Board, on a motion by Commissioner Crawford, which was seconded by Commissioner Gatto, and made unanimous by Chairman Raley, approved a contract extension to the Garrett County Health Department with payment based on the actual amount billed or the Medicaid rate (whichever is less).
- g) Electrical Service (bid #11-0623E). The Board, on a motion by Commissioner Crawford, which was seconded by Chairman Raley, and made unanimous by Commissioner Gatto, approved a contract extension to Evergreen Electrical Company, Inc. for basic labor rates for master electrician at \$38.00 per hour and percentage mark up for materials at 8%.
- h) Plumbing Services (bid #09-0604P). The Board, on a motion by Commissioner Gatto, which was seconded by Chairman Raley, and made unanimous by Commissioner Crawford, approved a contract extension to Rush Services, Inc. for basic labor rates for master plumber at \$55.00 per hour and percentage mark up for materials at 25%.
- i) Uniform and Mat Rental Services (bid #08-1113U). The Board, on a motion by Commissioner Crawford, which was seconded by Chairman Raley, and made unanimous by Commissioner Gatto, approved a contract extension to UniFirst Corporation. Specific uniforms and mat sizes are with assigned prices on file with the Purchasing Department.

6. Public Commentary.

- a) Linda Bowerbaugh had questions on the Public Hearing conducted on May 31, 2012 whereby the Board of County Commissioners approved an amendment to the Deep Creek Zoning Ordinance. Ms. Bowerbaugh will receive all documentation she requested from the Department of Planning and Land Development and the Office of the Board of County Commissioners.
- b) Dick Bolt voiced his opinion on commercial wind generation and a variety of related matters.
- c) Steven Friend voiced his opinion on commercial wind generation and the recent Amendment to the Deep Creek Watershed Zoning Ordinance.

- d) Jerry Plauger voiced his opinion on a number of Country Government matters including public notification of meetings.
7. Carol Riley-Alexander, Executive Assistant to the Board of County Commissioners and County Administrator, reviewed the meeting and committee schedule for the forthcoming weeks.
8. In compliance with the Maryland Open Meetings Act under section 10-509, a record of the Executive Session for June 5, 2011 is hereby documented on this date, the next open/public meeting of the Board of County Commissioners.

The Board of County Commissioners, on a motion by Commissioner Gatto, which was seconded by Commissioner Crawford, and made unanimous by Chairman Raley, moved into Executive Session under section 10-508 of the Maryland Open Meetings Law on this date to discuss personnel matters. There will be no public disclosure of these matters. The same motion ended the Executive Session.

9. The Board of County Commissioners, on a motion by Commissioner Gatto, which was seconded by Commissioner Crawford, and made unanimous by Chairman Raley, moved into Executive Session under section 10-508 of the Maryland Open Meetings Law on this date to discuss legal, economic development, and personnel matters. The same motion ended the Executive Session.

ADMINISTRATIVE MATTERS

1. Mr. Pagenhardt reviewed informational, administrative and pending issues with the Board of County Commissioners.
2. The Board of County Commissioners, on a motion by Commissioner Gatto, which was seconded by Commissioner Crawford, and made unanimous by Chairman Raley, appointed Lisa Serfass to the Garrett County Mental Health Advisory Committee as a local mental health professional. This appointment is fulfilling the appointment of Steve Richard who resigned. Official letter of appointment will be sent to Ms. Serfass under the signature of Chairman Raley.
3. The Board of County Commissioners, on a motion by Commissioner Gatto, which was seconded by Commissioner Crawford, and made unanimous by Chairman Raley, appointed Jenny McNally, Dean Ann Wellham, Jill Horner, and Debbie Ward to the Garrett County Department of Social Services Advisory Board and reappointed Linda Green, Donna McClintock-Fost, and Suzanne Ryan. Official letters of appointment will be sent to each appointee under the signature of Chairman Raley.
4. On behalf of the Board of County Commissioners, Chairman Raley and Mr. Pagenhardt executed a Memorandum of Understanding between the Board of Trustees of Garrett College acting through Adventure Sports Institute of Garret College (ASI) and Adventure Sports Center International, LLC (ASCI).
5. On behalf of the Board of County Commissioners, Chairman Raley and Mr. Pagenhardt executed a Lease Agreement between the Mountainside Homeowners Association and the Board of County Commissioners.

6. On behalf of the Board of County Commissioners Chairman Raley and Mr. Pagenhardt executed a Lease Agreement between the Willows Council of Owners and the Garrett County Sanitary District, Inc.
7. The Board of County Commissioners, on a motion by Commissioner Gatto, which was seconded by Commissioner Crawford, and made unanimous by Chairman Raley, approved a real property tax abatement for Accident Community Housing Corporation.
8. The Board of County Commissioners, on a motion by Commissioner Gatto, which was seconded by Commissioner Crawford, and made unanimous by Chairman Raley, approved a waiver of landfill tipping fee for Habitat for Humanity Hopeland Village.

Attest:

By Order of the Board,

R. Lamont Pagenhardt,
County Administrator

James M. Raley, Chairman
Board of County Commissioners

Date

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Gregan T. Crawford
Robert G. Gatto
James M. Raley

County Administrator
R. Lamont Pagenhardt
County Attorney
Gorman E. Getty III

FINDING OF FACTS

Board of Garrett County Commissioners

Deep Creek Watershed Zoning Ordinance Amendment

THIS CASE involves a citizen petition being heard by the Board of County Commissioners pursuant to Sections 157.189 and 157.190 of the Deep Creek Watershed Zoning Ordinance made by Mr. Bill Meagher. Specifically Mr. Meagher has requested two amendments to the Ordinance, the first of which is to amend the Table of Use Regulations to add a new category of use under section 157.024(c).23 to read as follows:

157.024(c). 23 - Boat Rental as a separate service business and not offering any other services associated with a Marina.

Mr. Meagher proposes that such a use would be P- Permitted in the TC-Town Center and C-Commercial zoning districts; permitted by SE-Special Exception in the TR-Town Residential, CR-1 and CR-2 Commercial Resort 1 & 2 zoning districts; and N-Not permitted in any of the other districts.

Mr. Meagher's proposal also requests an amendment to the Table of Dimensional Requirements for Principal Uses to clarify that the boat rental service business would require the same minimum land area that the sale or rental of recreational vehicles use requires which is 10,000 sq. ft. under section 157.041(c).10 to read as follows:

157.041(c).10 - Sale or rental of recreational vehicles, including boat rental as a separate service business.

The use would require a minimum land area of 10,000 sq. ft. in any district where it is permitted and all yard setbacks would remain the same, as they currently exist.

The Board of County Commissioners conducted a duly advertised public hearing on this citizen petition on May 31, 2012. Board Chairman, James Raley, and Commissioners Gregan Crawford and Bob Gatto were present for the duration of the hearing. The Board extended the record to allow for additional written public comment on the Proposal until 8:00 a.m. on June 5, 2012.

On the basis of the testimony received during the hearing, the written comments received from interested parties and the recommendations of the Garrett County Planning Commission, the Board hereby makes the following finding of facts inter alia, relevant to this case:

Finding: The Garrett County Planning Commission provided their written recommendation to the Board by letter dated May 17, 2012 (see attached letter). The Planning Commission determined that a boat rental service, as a separate business entity, would have no greater land area needs for parking, storage, traffic generation or general lay-out than would the use currently identified in the ordinance as “sale or rental of recreational vehicles”. The Commission further advised that the current wording in the ordinance that associates a “boat rental service” with a “marina” unnecessarily requires a large land area (2 acres) in order to establish a boat rental business. The Commission concluded that as long as boat storage, repair, launching, etc. are not offered in conjunction with a boat rental business, then a minimum land area of 10,000 square feet is adequate to accommodate the boat rental business. Consequently the Commission recommended that a separate use category should be established for boat rental and that the minimum land area requirement of 10,000 square feet should be established for the use as suggested by the petitioner.

Finding: The Proposal submitted by Mr. Meagher is for a text amendment to the Zoning Ordinance and does not effect any change in zoning district boundaries. The text amendment as proposed would allow the boat rental use by right in the TC-Town Center and C-Commercial zoning districts and by Special Exception in the TR-Town Residential, CR-1 and CR-2 zoning districts. No recent or significant change in population has occurred in these districts, however, these districts are intended growth areas within the County Comprehensive Plan.

Finding: The Proposal does not involve a zoning district change, however, the text change would permit the boat rental use by right in the TC and C districts only and by Special Exception in the TR, CR-1 and CR-2 districts only. These zoning districts are existing communities that have public facilities and services readily available to them including police and fire protection and public sewer service.

Finding: The Proposal does not involve a zoning district change, however, the text change would permit the boat rental use only in districts that have adequate transportation patterns and traffic capacity including the US 219 principal arterial corridor and existing County public roads.

Finding: The Proposal does not involve a zoning district change, however, the text change would permit the boat rental use only in districts where commercial development activity or mixed use is permitted (TC, C, TR, CR-1 and CR-2) and the use would not be permitted in the Lake Residential 1 and Lake Residential 2 zoning districts nor in any of the Resource districts. The allowance of the boat rental use only in the appropriate commercial districts makes the proposed change compatible with existing development patterns in the Deep Creek Watershed.

Finding: The Proposal involves a zoning text change that would allow the boat rental use only in districts where other general commercial activities are permitted and all of districts where the boat rental use would be allowed, including the communities of

McHenry and Thayerville are identified as Priority Funding Areas (PFA's) in the Comprehensive Plan for Garrett County.

Finding: The Proposal does not involve a rezoning or reclassification of any specific property and therefore an analysis of whether a rezoning is appropriate and logical or whether there has been a substantial change in the neighborhood or mistake in the existing zoning classification is not warranted pursuant to Section 4.05 of Article 66B. The foregoing notwithstanding, all of the evidence presented convincingly demonstrates that the proposed text change is appropriate and logical.

UPON DUE CONSIDERATION of the foregoing Findings, it is the Conclusion of the majority of the Board that the proposal to amend the text of two specific sections of the Deep Creek Watershed Zoning Ordinance should be approved with the stipulation that the phrase "boat rides and / or boat tours" should be added to the Petitioner's amendment as recommended by the Planning Commission to read as follows:

1) 157.024(c).23 - Boat rental including boat rides and / or boat tours as a separate service business and not offering any other services associated with a Marina.

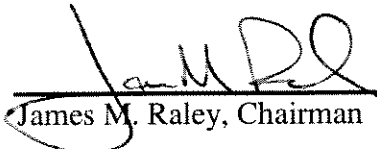
The use would be P- Permitted in the TC-Town Center and C-Commercial zoning districts; permitted by SE-Special Exception in the TR-Town Residential, CR-1 and CR-2 Commercial Resort 1 & 2 zoning districts; and N-Not permitted in any of the other districts.

2) 157.041(c).10 - Sale or rental of recreational vehicles, including boat rental as a separate service business.

The use would require a minimum land area of 10,000 sq. ft. in any district where it is permitted and all yard setbacks would remain the same, as they currently exist.

TO GIVE EFFECT to its Conclusion it is, THEREFORE, the ORDER of the Board by a 2 to 1 vote that the petition for text amendments submitted by Mr. Bill Meagher shall be APPROVED.

Accepted and approved this 28th day of June, 2012 on behalf of the Board of Garrett County Commissioners and its Actions pursuant to Sections 157.189 and 157.190 of the Deep Creek Watershed Zoning Ordinance.


James M. Raley, Chairman