

MINUTES OF THE MEETING OF
ROWAN COUNTY COMMISSIONERS
APRIL 6, 1998 – 9:00 A.M.
COMMISSIONER'S MEETING ROOM, ADMINISTRATION BUILDING

PRESENT: James B. Neely, Chairman
J. Newton Cohen, Vice-Chairman
Steve Blount, Member
Dave Rowland, Member
Frank Tadlock, Member

The County Manager, Finance Director, County Attorney, and Clerk to the Board were also present. Chairman Neely called the meeting to order and Commissioner Cohen provided the invocation.

CONSIDERATION OF CONSENT AGENDA:

Chairman Neely stated he would like to discuss the noise ordinance as written in the minutes.

Commissioner Blount moved to approve the consent agenda as submitted. Commissioner Tadlock seconded and the motion carried.

The consent agenda consisted of the following items:

- (A) Approval of Minutes from 3/4/98, 3/16/98 and 3/30/98 Meetings
- (B) Approval of Refunds totaling \$3,107.81
- (C) Unanimous Petition for Road Name Change of *Southern Breeze Lane*

“REMEMBER OUR CHILDREN” REVIEW OF CHILD ABUSE PREVENTION NETWORK IN ROWAN COUNTY:

Social Services Director Rick Travis gave the Board a report on the activities of the Child Abuse Prevention Task Force during the past year. He noted how each agency that participated in the Task Force had responded to create changes in the child protection system in the County.

Commissioner Tadlock asked Mr. Travis to discuss with the Board the action taken by the Board of Social Services concerning taping incoming child abuse report calls.

Mr. Travis told the Board that the Board of Social Services had unanimously voted to approve Mr. Travis to work with Telecommunications Frank Thomason to develop a suitable form for taping incoming child abuse calls.

Commissioner Blount thanked the members of the task force for their dedicated work throughout the year.

Commissioner Cohen asked Mr. Travis to try to reallocate positions in the department before asking for new positions in the budget.

PROCLAMATION: CHILD ABUSE PREVENTION MONTH:

Commissioner Blount read the attached proclamation declaring April as Child Abuse Prevention Month in Rowan County. Commissioner Rowland moved to approve the resolution. Commissioner Cohen seconded and the motion carried.

PUBLIC HEARING: INDUSTRIAL FACILITIES POLLUTION CONTROL AGREEMENT WITH REAL REEL CORPORATION:

Commissioner Blount moved to open the public hearing for comments on an Agreement with the Industrial Facilities Pollution Control Authority and Real Reel Corporation. Commissioner Tadlock seconded and the motion carried.

Attorney Holshouser noted that the Pollution Authority had signed an inducement to work with the Real Reel, Inc. to apply for revenue bonds to expand their local facility.

There being no public comment, Commissioner Blount moved to close the public hearing. Commissioner Cohen seconded and the motion carried.

Commissioner Blount then moved to approve the project and the inducement agreement. Commissioner Rowland seconded and the motion passed unanimously.

Commissioner Cohen moved to adjourn the meeting. Commissioner Blount seconded and the motion carried.

Clerk of Superior Court Terry Osborne administered oaths of office for incoming board members James B. Neely, J. Newton Cohen, Steve Blount, Frank Tadlock and Dave Rowland. The Board agreed that Mr. Neely would serve as Chairman.

Chairman Neely swore in Lloyd Pace, Rowan County Enforcement Officer, Marion Lytle, Rowan County Planner and Ms. Evelyn Whitman, petitioning resident.

The Board heard case number ZBA-1-98 concerning property located at 205 Redmon Road.

Mr. Pace testified that Ms. Whitman was seeking a variance to the Zoning Ordinance requirements for shingled roofs on manufactured homes in the Rural Residential Zoning District. He presented maps and pictures of the property in question.

Ms. Whitman testified that she had purchased the manufactured home in December, prior to the adoption of the Zoning Ordinance but had been unable to clear the lot due to the excessive rain during the winter. It was therefore March when she sought the proper permit and was denied because the roof was not shingled as required in the Rural Residential Zoning District.

Mr. Rowland asked staff what they recommended. Mr. Lytle stated that as Zoning Administrator he did not feel granting the variance would be detrimental to the surrounding area.

Mr. Blount read the finding of facts as follows:

1. Manufactured homes are permitted in the RR Zoning District and by having no shingles on the structure would not create a negative impact on the surrounding property.
2. Testimony indicated that the application bought the home before zoning was ever in Rowan County.
3. Testimony indicated that the applicant was told she did not need to get a building permit until the home was ready to moved onto the lot. If she had purchased the permit when at the time of the purchase of the home the case would not be here today.

Conclusion

1. The hardship is unique to the applicant and is not neighborhood-wide or community-wide.
2. The applicant had no knowledge that the purchase of this home in December would be in violation of the Zoning Ordinance
3. The granting of the variance will observe the spirit of the Zoning Ordinance.

Mr. Rowland moved to grant the variance. Mr. Cohen seconded and the motion passed on unanimous vote.

There being no further business Mr. Rowland moved to adjourn the Zoning Board of Adjustment. Mr. Blount seconded and the motion carried.

After convening as the Board of Adjustment, Commissioner Rowland moved to adjourn the Zoning Board of Adjustment. Commissioner Blount seconded and the motion carried.

Commissioner Blount then moved to reconvene the Board of Commissioners. Commissioner Rowland seconded and the motion passed on unanimous vote.

PROPOSED SUBDIVISION ORDINANCE TEXT AMENDMENT FOR ADEQUATE PUBLIC FACILITY STANDARDS:

Planner Marion Lytle presented the Board with an amendment to the subdivision ordinance to add a public facility standard on subdivisions of 30 lots or more. He reviewed the highlights and requirements of the amendment with the Board.

Commissioner Rowland stated he did not agree with the section which required a developer to upgrade nearby roads based on conditions created by the construction of a subdivision. Commissioner Blount asked if the state would make road improvements if a large subdivision was constructed. Mr. Lytle stated that the state would make improvements under the secondary road system. He noted that DOT can also require a developer to put in turn lanes if traffic warrants.

The Board agreed by consensus to delete all references to road maintenance. Chairman Neely suggested delaying the amendment until the next Board meeting, but others members felt that there was not sufficient time to delay.

Commissioner Rowland questioned Mr. Lytle about the minimum number of lots being 30 for a subdivision to be affected by the ordinance. He stated he thought the Board had asked for a 50 lot minimum when first approached about the idea.

The Board also discussed data which indicated the average number of students per household was not as great as first believed. Commissioner Rowland stated he was not sure that he wanted to continue with the ordinance since it would not have as big an impact on the schools as first thought.

Commissioner Tadlock stated that he was surprised about the impact data and that it was not as great as the Board had thought. He added he was also disappointed about dropping the minimum number from 50 to 30.

Commissioner Blount moved to modify the minimum number of lots from 30 to 50 and have a public hearing at the Board's next meeting to hear public comment. Chairman Neely seconded and the motion was defeated by a vote of 2/3 with Commissioners Rowland, Tadlock and Cohen voting against.

Mr. Lytle told the Board that the point of the moratorium on subdivision construction was now moot. Commissioner Rowland moved to suspend the moratorium. Commissioner Tadlock seconded and the motion carried. Commissioner Blount noted that he voted for the motion only because there was no chance of putting an impact ordinance in place.

- Chairman Neely then introduced Mr. ????, a commissioner from Santos, Brazil. He welcomed him and thanked him for taking an interest in our form of government.

PRESENTATION OF VESTED RIGHTS DETERMINATION AMENDMENT TO ZONING ORDINANCE:

Mr. Lytle asked the Board for direction in determining when someone had vested rights to be grandfathered from the zoning ordinance.

Commissioner Rowland stated that the Board did not intend to put an undue burden on anyone by adopting the ordinance. Mr. Lytle suggested that vested rights be determined by a person having invested in a project prior to the adoption of the ordinance. The Board agreed by consensus.

Commissioner Blount moved to set a public hearing on April 20th for the purpose of considering the vested rights amendment to the Zoning Ordinance. Commissioner Cohen seconded and the motion carried.

Mr. Lytle also presented the Board with the following text amendments:

An amendment to ARTICLE VI. "TABLE OF USES" concerning uses in the "Transportation, communications, electric, gas and sanitary services" section. The amendment would allow

electric and water distribution lines and natural gas pipelines as permitted uses in all districts.

An amendment to ARTICLE X. "SCREENING AND BUFFERING" to incorporate required state water supply watershed regulations. This amendment provides for a 30 ft. buffer along all perennial streams, lists exceptions for development in required watershed buffer areas and requires the County Planner to keep detailed records for all SNIA approvals.

An amendment to ARTICLE XII. "GENERAL DEVELOPMENT STANDARDS, EXCEPTIONS AND MODIFICATIONS." The amendment provides for a determination of vesting to be made by the Zoning Administrator after appropriate notice and hearing of the case.

An amendment to ARTICLE XV. "TEXT AND MAP AMENDMENTS" stating that a denied map rezoning may not be resubmitted for one year unless specific determinations have been made.

An amendment to ARTICLE XIV. "APPEALS, VARIANCES AND INTERPERETATIONS" stating that a denied variance request may not be resubmitted for one year.

Commissioner Blount moved to hold a public hearing on the text amendments in conjunction with the vested rights amendment. Commissioner Rowland seconded and the motion carried.

PROPOSED SCHEDULE FOR REZONING:

Mr. Lytle gave the Board a proposed schedule for rezonings which would give the Planning Board approximately 30 days to make recommendations to the Board of Commissioners.

The Board agreed by consensus to the schedule as presented.

CONSIDERATION OF LETTER OF CREDIT FOR ROAD PAVING PROJECT:

Planner Ed Muire presented a request from Clover Glen Subdivision asking the Board to accept a letter of credit for road improvements in the subdivision. Mr. Muire indicated that the letter of credit was guaranteed by Farmers & Merchants bank in the amount of \$56,250.

Commissioner Rowland moved to accept the letter of credit. Commissioner Blount seconded and the motion carried.

Mr. Muire also asked the Board to consider a waiver from the minimum lot depth requirements for lot number 5 in the subdivision. Commissioner Rowland moved to grant the waiver. Commissioner Rowland seconded and the motion carried.

APPROVAL TO APPLY FOR WOOD WASTE REDUCTION GRANT:

Don Conner and Recycling Coordinator Sherri Argabright asked the Board's approval to apply for a grant for \$25,000 to be used toward the purchase of a tub grinder to grind wood waste at the landfill.

Mr. Conner noted that it would require a \$50,000 match from the enterprise fund but the money was in the budget. He told the Board that the grinder they intended to purchase was a used grinder but in excellent condition.

Commissioner Blount moved to approve the application of the grant. Commissioner Cohen seconded and the motion carried.

MINIMUM HOUSING ENFORCEMENT ACTION:

Mr. Conner and Greg Greene presented the Board with a case involving the Minimum Housing Ordinance.

Mr. Greene noted that the residence was located at 415 Ted Lane and did not have running water, electricity or septic system. He stated that no permits of any kind were ever received by the occupant. He then reviewed the timeline leading to the request for action. He asked the Board to approve a resolution directing the County Attorney to seek court action to enforce the order to vacate.

Commissioner Blount moved to adopt the resolution. Commissioner Cohen seconded and the motion carried.

ROAD NAMING: FOX HOLLOW FARM ROAD:

Mr. Conner informed the Board about a petition from Larry Jones requesting to rename a road that ran through his property. Staff recommended that only a portion of the road be renamed since there were legal questions concerning the other portions of the road.

Commissioner Rowland moved to accept staff recommendation. Commissioner Blount seconded and the motion carried.

PROPOSAL FOR HEALTH DEPARTMENT TO BECOME A PRIMARY CARE PROVIDER:

Health Director John Shaw gave the Board a proposal for the Health Department to become a primary care provider for Medicaid clients. He recommended utilizing existing staff for the clinics and to contract with several doctors for 2-4 hours per week.

Commissioner Blount stated he understood the Board of Health had not voted unanimously on the proposal and asked Mr. Shaw why some members did not support the proposal. Mr. Shaw stated that they were opposed to the idea of competing with private caregivers.

Commissioner Blount moved to allow the Health Department to become a primary care provider as presented. Commissioner Rowland seconded the motion and it was defeated by a vote of 2/3 with Commissioners Cohen, Neely and Tadlock voting against.

Chairman Neely then adjourned the meeting for a lunch break.

Chairman Neely reconvened the meeting in order for the Board to meet with members from the Board of Education. Those present were Chairman Stan Welch, Bruce Jones, Karen Carpenter, Kay Norman, Eldridge Williams, Betty Starr and Vic Bost. Dr. Joe McCann and other school staff were also present.

Members discussed the forums for presenting the funding plan to the public. There was concern from the Board of Commissioners about the PTA conducting the public forums. It was decided that the meeting would be jointly sponsored by the Board of Commissioners and the Board of Education and the PTA would moderate the meetings. It was also agreed that six meetings would be held, one at each high school and one at the County Commissioner's meeting room.

Commissioner Blount questioned the use of 20% as a guideline for reviewing SAT scores. He suggested they use the same percentage as the state. It was agreed that in student performance the Board of Education would use the top 40% of the SAT scores.

In discussing current expense appropriations, Chairman Welch asked the Board to consider using some of the County's fund balance to fully fund the school's request.

Members of the Board stated they could not use fund balance but were will to find a way to fund at state average if the Board of Education would be willing to guarantee state average performance results. The boards agreed that the Board of Education would have three years beginning from the date the County funds at state average to meet state average performance results.

It was decided that two members from each Board as well as the Superintendent and County Manager would serve as a committee to interview consultants to perform the efficiency study. They asked that if the committee could not decide on a firm that the proposal would be brought back to the full two Boards for a decision.

The Board thanked the Board of Education for meeting to discuss the funding proposal.

REVIEW OF BRENDLE'S BUILDING PLANS:

Mr. Jim Powell, architect for Atkinson, Dyer & Watson reviewed the schematic design plans for the Health Department and Rowan Behavioral Healthcare in the old Brendle's building.

The Board asked Mr. Powell to revise the plans in order to reduce the price per square foot to as close as \$50.00 as possible. Mr. Powell agreed to revise with that goal in mind.

INTERLOCAL WATER AGREEMENT WITH THE TOWN OF SPENCER:

Mr. Russell gave the Board a draft agreement between the Town of Spencer and Rowan County for the construction of a water tank to serve the Aldi project.

Commissioners reviewed the agreement and Commissioner Rowland stated that he did not like the idea of giving the tank to the Town after paying for the construction. He asked the Board to consider amending the agreement to state that Spencer could not turn the tank over to the City of Salisbury in the future without the approve of the County.

Commissioner Blount moved to approve the agreement with the amendment that Rowan County would have the option to have ownership of the water system if the Town decided to turn the system over to the City of Salisbury. Commissioner Rowland seconded and the motion carried.

APPROVAL OF RIGHT-OF-WAYS FOR DOT AT INDUSTRIAL PARK:

Mr. Russell gave the Board two offers to purchase easements along I-85 at the Industrial Park. One offer was for a .3 acre site for 19,625 and the second for 7.285 acres at a price of 246,900.

Commissioner Rowland said he felt the County should continue to negotiate for a better price.

Commissioner Blount moved to accept the proposals from the State. Commissioner Cohen seconded and the motion passed by a vote of 4/1 with Commissioner Rowland voting against.

EASEMENTS FOR CITY OF SALISBURY SEWERLINE:

Mr. Russell gave the Board an easement from the City of Salisbury to run sewer along National Guard Road to serve the Ohio Packaging project.

Commissioner Blount moved to approve the easements. Commissioner Cohen seconded and the motion passed by unanimous vote.

There being no further business Commissioner Cohen moved to enter closed session to discuss economic development and litigation with L.S. Powell limited. Commissioner Tadlock seconded and the motion carried.

Upon conclusion of closed session, Commissioner Blount moved to return to open session. Commissioner Tadlock seconded and the motion passed on unanimous vote. There was no action taken during closed session.

Commissioner Tadlock moved for the County Manager and Superintendent to work with the committee to hire a consultant to perform an efficiency study for the schools. He added that the two Board representatives should be Commissioners Rowland and Cohen. Commissioner Rowland seconded the motion and it passed unanimously.

There being no further business, Commissioner Rowland moved to adjourn the meeting. Commissioner Cohen seconded and the motion carried.

Respectfully Submitted,

Kelly Dickinson, CMC
Clerk to the Board