

**MINUTES OF THE MEETING OF THE
ROWAN COUNTY BOARD OF COMMISSIONERS
SEPTEMBER 16, 2002 – 7:00 PM
J. NEWTON COHEN, SR. ROOM, ADMINISTRATION BUILDING**

Present: Steve Blount, Chairman
Gus Andrews, Vice-Chairman
Arnold Chamberlain, Member
Frank Tadlock, Member
Leda Belk, Member

The County Manager, the Clerk to the Board, the County Attorney and the Finance Director were also present.

Chairman Blount convened the meeting at 7:00 pm.

Commissioner Chamberlain provided the Invocation and Commissioner Andrews led the Pledge of Allegiance.

ADDITIONS:

- Tim Russell, County Manager, requested an Executive Session for discussion concerning an Economic Development issue.

COMMISSIONERS LIAISON REPORTS:

Commissioner Belk informed the Board that the Department of Social Services (DSS) would be holding a work session to improve relationships within the department and to improve its relations with the public to “let people know all the good things that we do.”

Chairman Blount distributed correspondence pertaining to 911 calls that are made from cell phones. Chairman Blount announced that the National Association of Public Safety Communications Officials had selected Rowan County to be the Model Community for North Carolina to implement technology that allows callers from cell phones to be identified and located.

Chairman Blount also distributed and read a letter from the Department of the State Treasurer concerning the bond rating upgrades. The letter praised the diligent efforts of County Manager Tim Russell and Finance Director Leslie Heidrick for their work in achieving the upgrades.

CONSENT AGENDA:

In response to a query from Commissioner Chamberlain pertaining to the budget request from the Library, Ms. Heidrick stated the County did not have to provide matching funds for the federal grant.

Commissioner Chamberlain made a motion to approve the Consent Agenda. The motion was seconded by Commissioner Andrews and passed unanimously.

The Consent Agenda consisted of the following:

- A. Approval of the 09/03/2002 minutes
- B. Approval of the NC DOT request that Biltmore Avenue be added to the State Secondary Road System
- C. Approval of the Budget Amendments

PUBLIC COMMENT PERIOD:

Charles Ramsey had previously signed up to address the Board but did not attend the meeting.

PUBLIC HEARING FOR CUP-16-02, REQUEST FOR A RESIDENTIAL CLUSTERING:

Chairman Blount declared the public hearing to be in session and read the Chairman's Speech (Exhibit "A"). Chairman Blount stated the purpose of the public hearing was to consider an application submitted by property owner, Mr. Scott Wagner for residential clustering of sixteen (16) dwelling units on Tax Parcel 138-063, located on the north side of Old Beatty Ford Road and east of the Goldfish Road intersection.

The Clerk swore in those wishing to provide testimony for the case.

1. Mr. Scott Wagner addressed the Board, seeking approval to develop a retirement community in China Grove. Mr. Wagner described the facility as sixteen (16) units designed for retirees or "empty nesters." Mr. Wagner explained that after the death of his father, he began looking for places for his mother to reside within Rowan County. Mr. Wagner was of the opinion, that existing facilities were inadequate to meet the needs of his mother. Mr. Wagner stated that other relatives living in retirement communities inspired his idea for the proposal. Mr. Wagner detailed the proposed community as being gated, to limit traffic and access, and stated the 17 ½ acres would be maintained by the Homeowner's

Association of the residents. Mr. Wagner reiterated that his mother's situation prompted the proposal.

Ed Muire, Assistant County Planner, pointed out the proposal is for a Cluster Subdivision, which differs from past projects that would have been approved as a multi-family district. Mr. Muire explained that multi-family units are rental units versus the cluster units being owner-occupied.

Mr. Muire continued by saying the proposal has gone through the subdivision process for conceptual site plan approval and through the Planning Board. Mr. Muire stated the next step procedurally would be for the Board of Commissioners to grant the conditional use of clustering, which is allowed in the RA District. Mr. Muire referred to the Staff Report (Exhibit "B") and the Conceptual Site Plan map (Exhibit "C") and discussed the Subdivision Requirements, stating the Subdivision Review Committee and the Planning Board approved the conceptual site plan with conditions. Mr. Muire stated that staff had received calls concerning visibility and septic issues. Mr. Muire continued by saying a spray irrigation system has not yet been proposed and that staff recommends that the spray irrigation system not be allowed.

Mr. Muire reviewed the Private Road Request, in Exhibit B, saying the proposed road would not be eligible for inclusion into the NC DOT secondary road maintenance system due to the gated entrance.

Mr. Muire continued by highlighting the Planning Board Meeting in Exhibit B. Mr. Muire reported that four (4) individuals had expressed concerns at the meeting, including concerns with increased traffic, lowering of property values and visibility of the site from residences. Mr. Muire stated that the Planning Board unanimously recommended approval of the concept site plan with the recommendation to require screening and buffering along adjacent developed lots.

Mr. Muire asked Mr. Wagner to address Items 1-6 of the Conditional Use Review in Exhibit B.

Mr. Wagner distributed an amended handout (Exhibit "D") and addressed the concerns as to how his application would comply with the conditional use criteria. Mr. Wagner stated that the map Mr. Muire referred to was "a little bit outdated, as far as the growth has increased considerably." Mr. Wagner stated that a 60' buffer had been left between property lines "and there is absolutely no way you can see through." Mr. Wagner also said:

- Shortening the road would center the development more. Mr. Wagner declared that if visibility were an issue, he would put up a privacy fence.
- The gated driveway would be built to state standards.
- There would not be any significant noise increase and that each unit would have its own parking, with no parking on the road.
- All sixteen (16) units are for retired citizens; no children, therefore minimal traffic.

Mr. Muire listed staff recommendations for approval as follows:

1. The parking spaces are property graded and improved with concrete or asphalt surfacing.
2. Screening should be located along the side and rear boundaries of the developed areas in this project.
3. Placement of gated access on internal road should provide an adequate area for ingress and egress to prevent stacking of vehicles on Old Beatty Ford Road.
4. Subsurface septic tank system.

Commissioner Andrews asked Mr. Wagner if he had sold Mr. Propst his property. Mr. Wagner responded yes and explained that he had divided a 40-acre plot of land into seven (7) lots. The lots required a minimum of 2,000 square feet, as well as a garage.

In response to a query from Commissioner Andrews, Mr. Wagner stated that he had purchased the property for the retirement community 6 to 8 months ago, and that he had sold Mr. Propst his property “well over a year ago.” Mr. Wagner stated the property for the retirement community had been for sale for “a couple of years.”

Commissioner Andrews pointed out the Homeowner’s Association can vote to remove the gate and turn the road maintenance over to the state.

Commissioner Andrews stated that when the Planning Board had approved the project, the project showed eight (8) units sitting at back of property. Commissioner Andrews said Ms. Long had expressed concerns about visibility and that Mr. Propst had been concerned about the possibility of noise. Commissioner Andrews stated those concerns had been appeased at the Planning Board meeting. Commissioner Andrews said a fence would not screen eight (8) two-story “townhouses” in the middle of the property.

Mr. Muire commented that the townhouses would be one-story. Mr. Muire referred to the “topo elevations,” saying one that is listed as 780, should be 770. Mr. Muire said he had visited the property and that unless you were on the top of the roof of Mr. Propst’s home, that you could see the back of the proposed townhouses. Mr. Muire said that moving the townhouses further towards the road would make the visibility more difficult with the existing vegetation.

Chairman Blount confirmed with Mr. Wagner that he intended to leave the existing trees in place. Mr. Wagner stated he wanted to blend the homes into the nature as much as possible.

When questioned by Commissioner Chamberlain, Mr. Wagner said each unit would have the same floor plan and each unit would be approximately 1,100 – 1,200 square feet. Mr. Muire responded to further questioning from Commissioner Chamberlain, stating that the property would have to be rezoned if Mr. Wagner wished to construct “a big metal building.”

Commissioner Andrews verified that unless the property is owner occupied, any future changes would have to come before the Board of Commissioners.

Chairman Blount questioned how Mr. Wagner would enforce the rules that required the units to be owner-occupied, no children allowed to live in the community, and at least one owner of each unit must be 55 years of age. Mr. Wagner said he had acquired a contract that states the conditions for buying the units.

Chairman Blount asked if this would be age discrimination. Mr. Wagner replied that the contract had been “used over and over by the same type of communities.”

Chairman Blount asked if there would be “something” written into the deed explaining to the owners the sharing of the responsibility for maintaining the road. Mr. Wagner responded yes.

Chairman Blount opened the public hearing to entertain citizen input concerning the Golden Pond Retirement Community. With no citizens wishing to address the Board, Chairman Blount closed the public hearing.

Chairman Blount opened the floor for deliberation and Commissioner Chamberlain responded that he was ready to make a motion.

Chairman Blount made several suggestions prior to the motion that included:

1. Staff’s recommendations of 1 through 3 listed in Exhibit B of the Staff Report.
2. Spray irrigation would not be allowed for the septic fields.
3. Road is to be built to DOT standards.
4. Homeowner’s Association responsibilities would be “spelled out” on the deeds.
5. Common areas would be left undeveloped (leave the trees in place).

Commissioner Chamberlain made a motion to approve the conditional use permit to include the suggestions made by Chairman Blount. Commissioner Belk seconded the motion.

Commissioner Andrews expressed concern over requiring the common areas to have trees, stating the common area for senior citizens could also include ponds and walking trails.

Mr. Muire stated that the applicant could ask for modifications to the plan.

Chairman Blount clarified that the purpose of leaving the common areas undeveloped is to block the visual impact from the surrounding properties.

The motion to approve the conditional use permit passed unanimously.

Chairman Blount declared the **Findings of Fact** as:

- The development of the property based on the conceptual site plan submitted, supplemented by the general subdivision zoning criteria will not endanger the public health or safety of the proposed residential clustering;
- Is compatible with housing types and conditions in the area will not injure adjoining proper values due to project amenities and owner occupied nature of the dwellings
- The residential and rural character of the area will not be compromised to the use of a large common area and the utilization of staff recommendations contained in the report.

Chairman Blount commented, “Clustering is something we hope to see a lot more of” and expressed appreciation to Mr. Wagner for presenting his application to the Board.

PUBLIC HEARING FOR CUP-17-02, REQUEST FROM WEST ROWAN BOW HUNTER’S CLUB:

Chairman Blount declared the public hearing for consideration of CUP-17-02 to be in session and read the Chairman’s Speech (Exhibit “A”). Chairman Blount stated the hearing would focus on an application from the West Rowan Bow-Hunter’s Members for the establishment of an archery range. The site is located at 1420 Amity Hill Road, identified as Tax Parcel 265-001, 277-004 and 277-006.

The Clerk swore in those who wished to provide testimony in the case.

Marion Lytle, County Planner, presented the background (Exhibit “B”), explaining that Staff had received a complaint regarding the establishment of the West Rowan Bow Hunters Club on Amity Hill Road. Mr. Lytle stated the Tax Parcels were listed incorrectly in the memo and reported the correct Tax Parcels to be 277-015, 277-004, and 265-011. Mr. Lytle stated the property is located just outside Cleveland’s ETJ and is owned by Thelma Little. Mr. Lytle continued by saying the adjacent property owner, John Oliver, and his realtor, Kurt Oliver, had called regarding the situation. Using a power point presentation (Exhibit “D”), Mr. Lytle pointed out that John Oliver has “a very nice, large house.” Mr. Lytle explained the complaint was based on two (2) issues, which were an 18-wheel trailer that had been pulled onto the site and an older, pre-1976 manufactured home had been set up. Mr. Lytle said a building permit was obtained for a security light and the manufactured home had been wired off the panel box without a permit.

Mr. Lytle listed the two (2) regulatory issues that arose from the situation as Archery Ranges are not permitted in the RA District, and the manufactured home was a pre-1976 and was not being used as a single-family residence. Mr. Lytle stated that staff met with members of the club at the site and the results are:

1. The manufactured home has been removed from the site

2. A zoning text amendment has been adopted to allow archery ranges as a conditional use in the RA District and also includes other non-profits.

Mr. Lytle used the power point presentation to depict the area and the topography of the site. Mr. Lytle pointed out the “very deep ravine” which the club is utilizing. Using the power point presentation, Mr. Lytle showed a view of the Oliver house from the Bow Hunter’s site, as well as the 18-wheel storage trailer and the previous location of the manufactured home. Mr. Lytle continued to show surrounding properties and additional views of the bow hunter’s club that were taken from the Oliver property.

Mr. Lytle presented the staff review as follows:

1. Adequate transportation to the site exists.
2. The use will not significantly detract from the character of the surrounding area.
3. Hazardous safety conditions will not result.
4. The use will not generate significant noise, dust, odor, etc.
5. Excessive traffic will not result.
6. The use will not create significant visual impacts.

Mr. Lytle outlined the Specific Conditional Use Requirements for Archery Ranges:

1. Arrow containment.
 2. Setbacks.
 3. Warning Signs, Trail Markings.
 4. Site Plan.
 5. Non-Profit Status.
 6. Lighting.
 7. Licenses & Permits.
 8. Insurance.
 9. Lot Size.
1. Mr. Lytle stated that staff recommends approval due to: The site layout and topography will ensure the facility does not endanger the public health or safety.
 2. The facility is generally compatible with the housing type and conditions of the area and will not substantially endanger the adjoining property value, especially in consideration of the effects of alternative permitted uses on the site.
 3. The facility is rural in nature and is in general harmony of the area.

Mr. Lytle said that in conversations with the Olivers, Ms. Oliver had expressed concern with the safety of her sons and that Mr. Oliver had concerns with the visual impacts.

Mr. Lytle stated that staff recommends the storage area and port-a-johns be screened with a double row of a type of Cypress, with each row 6’ off center. Mr. Lytle mentioned the club had been willing to put up screening and he had asked that they wait. Mr. Lytle also mentioned that the club suggested installing fencing. Mr. Lytle referred to the site plan (Exhibit “C”), which depicted the location of the targets and he referenced the Special Requirements, included in the Staff Report (Exhibit “B”), concerning the time frames for operation and events.

Commissioner Chamberlain asked Mr. Lytle to again show the 18-wheeler and the mobile home park “across the street from the Olivers.”

In response to Chairman Blount, Mr. Lytle showed the approximate location of the Oliver house on the map.

Chairman Blount opened the public hearing to entertain citizen input.

1. Tommy Kimball, a member of the West Rowan Bow Hunter’s Club, addressed the Board concerning the application. Mr. Kimball explained that the club had previously been located on property for over ten (10) years and had to move due to the property being sold. Mr. Kimball said, “When we were looking we had no idea that the zoning was taking this in” and “What we were doing was ignorance.” Mr. Kimball emphasized that a lot of time and money had been spent on the range. Mr. Kimball said the mobile home had been used for keeping records, files, and equipment. Mr. Kimball stressed that the club wanted to “do whatever we can” to make everyone “happy” and prevent any hard feelings. Mr. Kimball said that members had asked to speak with the Olivers and the Olivers had refused. Mr. Kimball reported that the club had gone to the residents located on Amity Hill Road, “starting from Highway 70, all the way to the end,” talking to “over thirty-some residents,” asking if they had a problem with the location of the club. Mr. Kimball stated that all of those residents had signed a petition in support of the club, with none objecting. Mr. Kimball said the residents were aware of the purpose of the club and the money it raises for those in need. Mr. Kimball stated the club was processing its 501 C (3). Mr. Kimball said if the 18-wheel trailer was “of question, we’ll be glad to plant some Cypress,” or paint it. Mr. Kimball said there were trees blocking the 18-wheel trailer, but that Mr. Oliver had cut them down. Mr. Kimball continued by saying they would plant trees to hide the trailer and ended by expressing appreciation to the Board for listening to the request.

Commissioner Andrews asked if the club owned the property. Mr. Kimball responded that the club leases the property and carries one million dollars in coverage for the landowner, for a total of two million dollars.

Commissioner Chamberlain confirmed that the house trailer had been moved and nothing else has been brought in. Mr. Kimball also said the truck used for storage is still in the same place, that the club had been told there was no violation for having the truck in place.

In response to a query from Commissioner Andrews, Mr. Lytle said the property would be restricted to the zoning request.

2. Tina Oliver addressed the Board, and said, “Regarding his statements,” the trailer and the port-a-johns were “just moved out.” Ms. Oliver said her concerns were

with the safety of her three (3) children, two (2) of which are boys and are hunters. Ms. Oliver stressed her concerns that “Unless somebody can guarantee me 100%” that her children would be safe. Ms. Oliver continued by saying the trees were cut down when the club came. Ms. Oliver also emphasized that her kids would not be able to go to the pond on Sunday afternoons because of the shooting at the club. Ms. Oliver mentioned that her cows were “right on the line adjacent with the property.” Ms. Oliver requested a guarantee from “somebody” that if her boys were “out there, there will be no harm.” Ms. Oliver said she knew the club was trying to accommodate the Olivers and she again said her boys were her main concern. Ms. Oliver said that they were not selling their house because they like the community.

Chairman Blount asked Mr. Lytle about the setbacks and confirmed the setbacks are from the property line. Mr. Lytle said that staff would make clear the requirements are met. Chairman Blount stressed that since the Oliver’s home is close to the property line, it would be important that the club meets the setbacks. Mr. Lytle said the club has “plenty of room.”

Commissioner Andrews said he could understand Ms. Oliver’s concerns and asked about “adjusting” the setbacks. Mr. Lytle confirmed with Mr. Kimball that the club is shut down for deer season. Mr. Lytle said he would make sure when the club reopens in the spring, that it complies with the setbacks.

Commissioner Chamberlain felt that the setbacks would be sufficient. Commissioner Chamberlain asked how many shoots are held per year. Mr. Kimball said, “3 to 4, and they’re held in the early part of the year.” Mr. Kimball explained that the club receives more participation when it has events in the early part of the year. Mr. Kimball said the club does hold one shoot in August.

In response to a query from Commissioner Chamberlain, Mr. Kimball said the club has target practice in-between events. Mr. Kimball also explained that during hunting season the land is leased to hunters. Commissioner Chamberlain conveyed that hunting season would be more dangerous than the club.

Commissioner Tadlock said it was impossible to guarantee anyone 100 % there would be no danger and cited an accident reported in the newspaper as an example. Commissioner Tadlock agreed that the club had prioritized safety.

Mr. Kimball reported that in order to receive insurance coverage, the insurance company has guidelines that must be met.

Ms. Oliver pointed out that there are only 1 or 2 hunters on the property at one time, but that when shoots are held, there are a lot of people shooting arrows and that “scares me.”

Commissioner Chamberlain suggested that the club give Ms. Oliver plenty of notice when shoots are to be held. Ms. Oliver responded that the club is good about doing that.

Chairman Blount closed the public hearing.

Commissioner Chamberlain made a motion to approve the CUP and said he was counting on Mr. Kimball to continue to do the “excellent job you’ve done in the past.” Commissioner Chamberlain said he had visited the site and that Ms. Oliver’s concerns were legitimate. Commissioner Tadlock seconded the motion.

Chairman Blount verified with Commissioner Chamberlain that his motion included the three (3) conditions recommended by staff. Chairman Blount asked Commissioner Chamberlain if he would consider adding to his motion that the applicant must screen the trailer/office/toilets. Commissioner Chamberlain responded “Not unless we screen the mobile home park across the street.”

Chairman Blount made a motion to amend the original motion, to add screening for the trailer/office/toilets from view from the adjacent property. Commissioner Belk seconded the amendment to the motion.

Commissioner Chamberlain pointed out that the mobile home park is closer and easier to see, than the 18-wheel trailer. Commissioner Chamberlain said “We’re doing something simply because we have the authority to do it, and I don’t like that.” Commissioner Chamberlain verified with Mr. Kimball that the club did not have a problem with putting up the screening.

In response to a query from Commissioner Tadlock, Chairman Blount stated staff would determine the screening requirements.

Upon being put to the vote, the amended motion received (4) ayes and (1) no, with Commissioner Chamberlain opposed.

Chairman Blount restated the motion at the request of Commissioner Chamberlain, saying, the motion is to grant the CUP as requested with the three (3) conditions as indicated by staff, and a 4th, as indicated by Chairman Blount concerning screening.

The motion carried was unanimous.

Chairman Blount stated the **Findings of Fact** as:

Based on the testimony before the Board, the club met the six (6) criteria as required and as written in the presentation by staff. The criteria was presented as follows:

1. Adequate transportation to the site exists.
2. The use will not significantly detract from the character of the surrounding area.
3. Hazardous safety conditions will not result.
4. The use will not generate significant noise, dust, odor, etc.
5. Excessive traffic will not result.

6. The use will not create significant visual impacts.

APPROVAL TO ADD DAN NICHOLAS PARK ON THE I-85 SIGNS:

Jim Foltz, Parks Director, addressed the Board concerning the rules for the placement of signs along the interstate. Mr. Foltz informed the Board that Dan Nicholas Park (DNP) is located 6 ½ miles from the interstate and that “over the past thirty years we’ve been trying to get a sign on the interstate recognizing DNP.” Mr. Foltz said in order to place a DNP sign along the interstate the rules would not allow you to be over five (5) miles from the interstate.

Mr. Foltz requested that the Board approve placing the words, “Home of Dan Nicholas Park” underneath the signs along the interstate that have the words “Welcome to Rowan County.” Mr. Foltz congratulated the Department of Transportation for the signs that are displayed for Dan Nicholas Park, once a citizen leaves the interstate.

Mr. Foltz asked the Board to approve a Resolution to add “Home of Dan Nicholas Park” to the two (2) signs entering Rowan County from Interstate 85.

Commissioner Tadlock made a motion to adopt the Resolution as presented. Commissioner Belk seconded the motion and the motion passed unanimously.

Mr. Foltz announced that fourteen (14) busloads of children had visited DNP from the Charlotte-Mecklenburg area. Mr. Foltz mentioned the revenue the children bring to the park.

CONTINUATION OF Z-7-02 AND CUP-8-02 FROM THE JUNE 17TH MEETING:

The Clerk swore in those wishing to provide testimony in the case.

Ed Muire, Assistant County Planner, explained that the hearing was a continuation of a conditional use hearing held at the June 17, 2002 Board of Commissioner’s Meeting. Mr. Muire referred to the handout (Exhibit “A”), which included an excerpt of the adopted minutes from the meeting.

Mr. Muire pointed out that the application that was submitted has not changed and continued by highlighting the background concerning the application. Mr. Muire stated that in October of 1999 a series of property divisions occurred which were exempt from the County’s Subdivision Ordinance. The tracts were ten (10) acres in size and were subject to compliance with the Zoning Ordinance for the Manufactured Home Overlay (MHO). Mr. Muire continued by explaining that Patricia Cromwell had purchased one of the tracts in December of 1999 and placed a doublewide mobile home on the property in March of 2000. Mr. Muire stated that in August of 2001, Ms. Cromwell was allowed placement of a singlewide manufactured home, approved as a temporary use for her father, for medical hardship. Mr. Muire emphasized that current zoning would only allow the mobile home on the property as a temporary use.

Mr. Muire referred to the Zoning Review (Exhibit "A"), and read Item #2. Mr. Muire said that, "In this case, the presence of another dwelling area, this request would have little to no impact on adjoining properties." Mr. Muire also pointed out that the tax map (Exhibit "A") provides an "idea" of the surrounding area. Mr. Muire continued by reading Item #3 of the Zoning Review and also by discussing the April 22, 2002 Planning Board Meeting. Mr. Muire stated that Ms. Cromwell was the only person offering public comment and spoke in favor of her request. Mr. Muire said that six (6) people were notified in regards to the application, with no response or concerns from the notification. The Planning Board unanimously approved a favorable recommendation to the Board of Commissioners. Staff supports the request.

Mr. Muire referred to the cover memo (Exhibit "A") and reviewed the concerns that had been raised in conversations between staff and the applicant. The concerns were:

1. The unit cannot be converted to a conforming use through the family subdivision provision due to structure of financing for the property.
2. Upon the death of her father, another family member may not occupy the unit as a condition of the temporary use approval.

Commissioner Chamberlain said, "We granted this on a hardship basis," and verified with Ms. Cromwell that her father still resided in the mobile home.

In response to a query from Commissioner Chamberlain, Ms. Cromwell said she was concerned that if her Dad were no longer there, no one else in the family would be able to occupy the mobile home. Ms. Cromwell added that she had invested approximately \$15,000 and that she would "hate to see it go from a home to a storage building." Ms. Cromwell commented that her neighbors would rather see a home on the property versus a storage building, because "it would be kept up."

Chairman Blount opened the public hearing to entertain citizen input. With no citizens wishing to address the Board, Chairman Blount closed the public hearing.

Chairman Blount repeated that the request before the Board was for a rezoning and a CUP, which would basically add a MHO to the property, and staff supports the request. Chairman Blount said for the record, "The concern of this Board is that we use medical hardship sparingly, in hopes that people aren't taking advantage of us, and that when we grant the medical hardship, we expect when the hardship is over, that whatever we've granted will end." Chairman Blount said staff is apparently comfortable with this request. Chairman Blount asked staff if the Board were setting a legal precedent. Mr. Lytle responded that these request have been handled on a case-by-case basis. Mr. Muire added that the process would be the same for a rezoning and conditional use permit and stated that Ms. Cromwell's application was thorough and she did address the criteria.

Chairman Blount created a scenario by asking, if the Board had not granted the medical hardship, and if Ms. Cromwell had come before the Board asking for a MHO, would the Board grant the request if the mobile home had not been in place. Mr. Muire responded

that the condition of the area would be the big issue and the visibility of the unit. Mr. Muire added that Ms. Cromwell has been “forthcoming.”

Commissioner Tadlock made a motion to accept staff’s recommendations for Z-07-02 and CUP-08-02, followed by a second from Commissioner Chamberlain. The motion passed unanimously.

REQUEST TO ENTER CONTRACT WITH PIEDMONT COG FOR CABLE FRANCHISE AGREEMENT RENEWAL:

Mr. Russell explained that a goal established by the Board for fiscal year 2002-03, was to complete negotiations with Time Warner Cable for the franchise agreement, which expires in December of 2003. Mr. Russell explained that Centralina COG no longer has staff to assist counties with the franchise negotiations. Mr. Russell continued by saying COG had recommended Piedmont Triad COG for the task. Mr. Russell said there were seven (7) municipalities, as well as the County that will be in the process of negotiating cable franchises. Mr. Russell informed the Board that combining the eight (8) franchise renewals into one (1) would reduce the overall costs.

Mr. Russell reviewed the proposed contract with Piedmont Triad COG and explained the process would require public hearings and negotiations would take between three (3) to six (6) months. Mr. Russell recommended the County join the effort for negotiations.

Chairman Blount asked if the Public Access Channel would be a part of the process. Mr. Russell responded yes and continued by saying the public hearings would offer citizens the opportunity to express what they wish to see in the franchise agreement.

In response to a query from Commissioner Chamberlain, Mr. Russell explained that Time Warner’s franchise was last negotiated approximately fifteen (15) years ago and at the time the agreement was under FCC rules. Mr. Russell said the rules have changed “dramatically.”

Commissioner Chamberlain verified with Mr. Russell the County’s cost would be \$10,000.00. Commissioner Chamberlain expressed his displeasure for having to pay Piedmont Triad COG for services that Centralina COG should be offering.

Commissioner Tadlock made a motion to accept the County Manager’s recommendation to enter into a contract with Piedmont Triad COG to renegotiate the cable franchise. Commissioner Belk seconded the motion.

Commissioner Andrews confirmed with Mr. Russell that the funds (\$10,000) were budgeted for the task.

The motion passed unanimously.

APPROVAL OF A RESOLUTION CONCERNING REFUNDING BONDS:

Leslie Heidrick, Finance Director, reviewed the information in the Board's packets concerning a Resolution contained within a document titled: "Extracts from Minutes of Board of Commissioners." The document states that Rowan County will sell, on October 1, 2002, \$19, 8000,000 in refunding bonds to Legg Mason Wood Walker, Inc. Ms. Heidrick referred to the interest rates, which range from 3.00% in 2003 to 4.00% in 2016.

The Resolution also authorizes Chairman Blount, as Board of Commission Chair, Mr. Russell, as County Manager and Ms. Heidrick, as Finance Director, to execute of the official statement and any other documents necessary to the sell and issuance of the bonds.

Ms. Heidrick referenced information received from the financial advisor, which illustrated the bids received from the sale on September 10, 2002 with Legg Mason being the low bidder. Ms. Heidrick then asked the Board to look at the handout that shows the final debt service numbers and the comparison with the old debt service amounts. The total savings not calculated is Net Present Value is \$1,446,109.17. Ms. Heidrick added that this savings reflects a 13-year period. Ms. Heidrick drew the Boards attention to the Present Value Benefit, which is approximately \$1,200,000.

Ms. Heidrick asked Board approval for the Resolution.

Mr. Russell emphasized that the savings exceeded expectations because of the recent upgrade in the bond rating and the insurance requirements.

Commissioner Tadlock made a motion to adopt the resolution as presented. Commissioner Andrews seconded and the motion passed unanimously.

Please refer to the following documentation as part of the minutes concerning the approval of the Resolution concerning Refunding Bonds:

PUBLIC COMMENT:

1. Tonya Davis, of 1225 Pebble Point, addressed the Board concerning “redefining the definition of Child Daycare Facility.” Ms. Davis said, “We would like the privilege to be able to watch five (5) children per 8-hour shift.” Ms. Davis pointed out the current definition allows “five (5) children in a 24-hour period.” Ms. Davis continued by saying her facility was good for the community, county and the state. Ms. Davis felt the facility aids the community in dealing with the budget deficit by allowing parents who have lost their jobs the opportunity to work seek jobs on second and third shifts. Ms. Davis pointed out the there are only a few childcare facilities in the county for those shifts. Ms. Davis stated that not redefining the definition would cause more parents to lose their jobs because it would be difficult for them to find other childcare providers. Ms. Davis felt there would be less unemployment in the county by allowing more daycare options for parents who need to work second and third shifts.

Chairman Blount verified that Ms. Davis keeps five (5) children on three different shifts and commented that the current document allows only five (5) children per 24-hour period.

Mr. Russell stated the matter would be a DSS issue and not a zoning issue.

Mr. Lytle informed the Board that Ms. Davis had filed an appeal with the Zoning Board of Adjustments and that the hearing was scheduled for October 7th.

Ms. Davis said she was addressing the Board to bring it to their attention early in the process.

In response to a query from Commissioner Chamberlain, Mr. Lytle said the county’s definition of five (5) children in a 24-hour period, was based on the state’s definition at the time, and Mr. Lytle added that the state’s definition is now three (3).

Mr. Lytle explained that a call was received from a representative from the NC State licensing group, (Division of Child Development) and he was informed that Ms. Davis was transferring her license from Spencer to Pebble Point, where she is leasing a home. When this call was received, Mr. Lytle became aware that Ms. Davis did not own the home, but is leasing the home at Pebble Point.

Mr. Lytle continued to explain that a daycare facility requires that if the facility is owned by the operator, it can operate in the RA zoning district, if the facility is being leased by the operator, it must be zoned commercial. Daycare facilities and childcare centers that provide for more than 5 children on an ongoing basis are commercial operations.

Mr. Lytle informed the Board that Ms. Davis is licensed for 8 children per shift and is willing to go down to 5 per shift.

Chairman Blount questioned that assuming the ruling is correct, what would be Ms. Davis' next step.

Mr. Lytle answered she would have to be rezoned to CBI.

Commissioner Chamberlain questioned "if she does this during the time she is leasing it, it has to be CBI."

Mr. Lytle answered "or" Ms. Davis could go back and buy the home, because as an SR business RA zoning district, she could operate the day care.

Ms. Davis asked to make a comment on the traffic, saying there was not much traffic in and out of the community. Ms. Davis stated that her husband provides transportation to the daycare for the parents. Ms. Davis mentioned that when children arrive for third shift, it is their bedtime and that children on second shift are not out "in the neighborhood" but play in a screened in porch and in the basement where the daycare is actually located.

Chairman Blount thanked Ms. Davis for her time.

Ms. Davis verified for Commissioner Chamberlain, that there is one (1) other daycare facility in Rowan County provides third shift childcare, and only four (4) other daycare facilities for second shift childcare.

ADDITIONAL COMMENTS:

Commissioner Andrews expressed sympathy at the death of Elva Crawford, Chair of the Board of Elections. Commissioner Andrews praised the years of outstanding service and support Ms. Crawford had dedicated to the county.

Chairman Blount called for a short break at 8:45 pm.

Chairman Blount called the meeting back to order at 8:50 pm and declared that the Board would go into Executive Session to discuss an Economic Development issue.

Chairman Blount returned the Board to Open Session at 9:00 pm.

ADDITIONS:

Update on the status of the State Budget:

Mr. Russell reminded the Board that the upcoming week is when the General Assembly would consider the compromise budget, which does not include the reimbursements or a replacement revenue source. Mr. Russell added that the speculations is that a separate Conference Committee will be created to address the sales tax this fall.

Chairman Blount added that, per a conversation with Representative Coates, it is doubtful that there are votes to pass the sales tax. Mr. Russell agreed and added that the NCACC and the League of Municipalities are urging county representatives to go to Raleigh to lobby for the sales tax.

Commissioner Chamberlain expressed doubt that this action would have positive results.

Chairman Blount informed the Board that he sent emails to the local legislators and received very little response, except from Representative Coates and added that he felt the Senate would probably give “something” and the House would probably vote it down.

Mr. Russell reminded the Board that the counties are scheduled to get the sales tax on July 1st, and questioned why the legislators would not give the sales tax to the counties for the six months during the interim. Mr. Russell explained that when the State passed its sales tax, the tax was to “sunset” on June 30th and the counties were to enact the sales tax on July 1st.

Mr. Russell also referenced negative comments made by the Governor’s staff, by referencing statements made that if local governments win the lawsuit, monies would be taken from somewhere else.

Chairman Blount told the Board that the NCACC made the recommendation not to sue the State, because the State would get the monies some other way.

Chairman Blount mentioned a bill being considered that would protect the local revenues in the future from the Governor.

Mr. Russell added that economists are estimating the shortfall next year will be \$1.6 billion, which means that next year there would need to be a growth rate of 10% to recoup.

ADJOURNMENT:

With no further business to come before the Board, Chairman Blount adjourned the meeting at 9:05 pm.

Respectfully Submitted,

Rita K. Foil
Clerk to the Board