

**MINUTES OF THE MEETING OF THE
ROWAN COUNTY BOARD OF COMMISSIONERS
August 16, 2004 – 7:00 PM
J. NEWTON COHEN, SR. ROOM, ADMINISTRATION BUILDING**

Present: Gus Andrews, Chairman
Frank Tadlock, Vice-Chairman
Leda Belk, Member
Steve Blount, Member
Chad Mitchell, Member

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

Chairman Andrews convened the meeting at 7:00 pm. Commissioner Tadlock provided the Invocation and Commissioner Mitchell led the Pledge of Allegiance.

ADDITIONS

- Attorney John Holshouser requested to add an Executive Session to discuss a litigation matter.

- Commissioner Blount commended Commissioner Belk on her recent trip to Chicago. Commissioner Belk informed the Board that she represented COG as their Chairman in Chicago for a program initiated by the EPA. Commissioner Belk made a presentation on the SEQL program and informed those attending the meeting of the actions taken in Rowan County to address “clean air”.

LIAISON REPORTS

There were no reports from Commissioner Liaisons.

CONSIDERATION OF THE CONSENT AGENDA

The Consent Agenda consisted of the following:

- A. Approval of the 8/2/2004 Minutes
- B. Approval to set a public hearing for a Majority road name petition for Cool Breeze Lane
- C. Approval to set a public hearing for text amendments for the Farmland Preservation Ordinance
- D. Approval of Proclamation for “Healthy Carolinians Month”
- E. Approval of the Advisory Board for the allocation of funding through the LLEBG
- F. Budget Amendments

Rita Foil, Clerk to the Board, asked to have consent agenda item “C” pulled for clarification. Ms Foil referenced the following changes:

- Page 2 of 8, Sec. 8.5-22. (b) Membership: The last line should read, “Thereafter, all appointments are to be for a maximum of two, three-year terms.
- All references to “National” Resource Conservation Service should be “Natural” Resource Conservation Service.

Commissioner Tadlock moved to approve the consent agenda with the changes as stated by the Clerk. Commissioner Blount seconded and the motion passed unanimously.

APPROVAL OF REQUEST FOR COUNTRY LIFE MUSEUM TO BE LOCATED AT SLOAN PARK

Randy Elium read a prepared statement and provided the background and objectives regarding the museum project. Mr. Elium explained that the purpose of the museum is to preserve, restore and demonstrate various aspects of the country life of the past. Mr. Elium said the museum has been a dream for various groups for over a ten-year period.

Mr. Elium highlighted a map of the proposed museum. Commissioner Tadlock asked Mr. Elium to display the map where the audience could view it as well.

Mr. Elium asked for a show of hand from those in the audience that were attending the meeting in support of the museum. There was a numerous show of hands, followed by a round of applause.

Commissioner Belk said she was aware of the project starting approximately eight or nine years ago. Commissioner Belk said the interested groups had

solidified to support the effort and suggested that the Board study the issue at its retreat.

Commissioner Mitchell questioned the estimated costs of the museum to the county/staff. Mr. Elium said the costs had not yet been determined and that there are “a lot of people interested in donating time, material or gift in-kind.” Mr. Elium estimated it would take two years to begin the project and up to twenty-five or more years for completion. Mr. Elium said he hoped grant funds would cover much of the costs.

Commissioner Blount said it was an interesting concept and understood the group was asking for an endorsement from the Board in allowing the group to establish a governing body.

Commissioner Blount moved to involve the Parks & Recreation Board, staff, the project founders and Rowan Museum staff to discuss the project in detail and to develop proposals and to allow the group to begin the establishment of the governing body by submitting a list of names to the Commissioners for approval as the project’s governing body at a future meeting. Commissioner Belk seconded the motion.

Commissioner Tadlock asked if the establishment of the governing body would allow the group to “tap” into funds through grants or the private sector. Mr. Elium said the name of the group was the Country Life Museum Founders and the “key” holdback of the group was an endorsement agreeing to allow the museum to go in Sloan Park. Mr. Elium said that people wanted to give to the project but with the stipulation that the museum goes in Sloan Park.

Commissioner Blount said his motion did not include Sloan Park and that he wanted staff to have input before formal consideration by the Board. Commissioner Blount said the motion was to establish the governing body and to allow the body to meet and come back to Board with recommendations. Commissioner Blount said the group would need to address the impact of locating the museum in Sloan Park, etc.

Chairman Andrews questioned what would happen to the plans for the museum if it were determined that Sloan Park would not be a suitable location. Mr. Elium responded that he was not sure. Mr. Elium said approximately 40-50 people had been meeting to discuss the plans and were in agreement that the museum should be located within a park setting. Mr. Elium said the group would like for the museum to be open to the public as opposed to being located in a private facility.

Chairman Andrews said he liked the museum concept but expressed concern with the limited park space in Rowan County. Chairman Andrews recommended that the group to discuss the issue with Rowan County Planning and Parks staff, as well as the County Manager, and schedule a future presentation to the Board that included more information.

Commissioner Blount preferred a detailed presentation from Park staff that included a drawing of the museum location, the impact on future expansions at the park, cost, staffing and operating costs, parking, etc. Commissioner Blount said he was presently willing to endorse the concept and the establishment of a governing body.

In response to a query from Commissioner Tadlock, Mr. Elium felt the requested study should come from Park staff and said the group had “gone the distance that we feel like we can go without a full endorsement.”

Commissioner Belk asked the group to take the ideas to Parks Director Jim Foltz and to allow Mr. Foltz and staff to make a presentation to the Board.

Chairman Andrews agreed with Commissioner Belk and said the Board should hear more information through the County Manager and the Parks Service.

Commissioner Blount withdrew his motion.

Commissioner Blount moved to ask Parks staff and the Parks & Recreation Board to put the information in the form of a proposal to the Commissioners with all pertinent details. Commissioner Blount said if additional information was needed the Parks staff should contact the group for details. Commissioner Belk seconded the motion and the motion passed unanimously.

Chairman Andrews called for a short break at 7:30 pm.

Chairman Andrews reconvened the meeting at 7:35 pm.

PRESENTATION ON PROPOSAL FOR MARKETING SUMMIT CORPORATE CENTER

Alan Lewis of the Keith Corporation said the company was a commercial real-estate firm, specializing in the development and marketing of business parks and the development of single-tenant industrial facilities.

Mr. Lewis discussed the role of the company pertaining to the economic development of Rowan County, specifically as relating to marketing and the development of Summit Corporate Center.

Mr. Lewis reviewed the proposal in the agenda packets including the Objective and Marketing Strategy. Mr. Lewis highlighted the following options offered to prospects:

- Straight Land sale.
- Build-to-suit fee development (the prospect owns the building at completion).
- Build-to-suit for lease.
- Joint venture build-to-suit for lease.

Mr. Lewis pointed out that the services extend beyond those of a commercial real-estate brokerage firm. Mr. Lewis said the primary role in helping to facilitate the location of industry is to get activity within the park. Mr. Lewis said the corporation would employ a land-planning firm that would generate a detailed master plan for the park. Mr. Lewis reviewed the following Tactics used by the Keith Corporation:

- Site Plans and Renderings
- Direct Calling
- Networking with Governmental Agencies
- Utilization of Existing Relationships
- Broker Networking
- Commercial Information Exchanges
- Signage & Brochures

Mr. Lewis discussed the pricing and recommended pricing the land to be competitive on a regional basis at \$28,500 to \$35,000 per acre. Mr. Lewis said the determination on pricing would be allocated after the land planning was completed and the efficiency of the sites was determined. Mr. Lewis contemplated offering 4-6 acres near the entrance of the park for commercial development, including a hotel and a restaurant site.

Mr. Lewis said the company's compensation would be 10% of the land sales, which would be evenly split with an outside broker, if applicable. Mr. Lewis said the park currently offers all of the infrastructure needed "for the time being." Mr. Lewis said if additional infrastructure were to be developed, TKC would be involved in managing the process. Mr. Lewis said construction managers would be on hand to implement the development after funding is approved, if necessary. Mr. Lewis said TKC would be paid a fee of 5% of the project cost for this service.

The terms with TKC were proposed for three years, beginning upon execution of the Listing Agreement, if approved by the end of the current month. Expiration was contemplated for August 31, 2007.

Mr. Lewis referred to Marketing Materials and said the land-planning firm would be utilized in marketing the property through the master planning process. In addition, TKC requested a marketing budget of \$15,000 for the first year of the agreement, \$10,000 for the second year and \$10,000 for the third year. Mr. Lewis said the fees would cover “direct out of pocket expenses.”

Mr. Lewis said the contract was proposed in two (2) phases, with approximately \$4,000 for Due Diligence/Site Analysis and approximately \$16,000 for the Master Planning.

Mr. Lewis recommended execution of the contract.

Mr. Lewis said the Listing Agreement of Property for Sale addressed the commission on a land sale.

Chairman Andrews questioned the pricing concept and commented that as the park develops the prices would change. Chairman Andrews pointed out that if two (2) or three (3) tracts in the park were sold, the value of the property within the park would increase. Mr. Lewis said TKC would help the County determine when that “break” would occur. Mr. Lewis said he would be glad to add flexibility into the contract to negotiate pricing going forward on a bi-yearly basis, or to agree upon pricing.

In response to a query from Commissioner Blount, Mr. Lewis confirmed that the \$28,500 to \$35,000 per acre was for the industrial sites. Mr. Lewis said TKC would identify the commercial uses to be attracted to the park. Mr. Lewis said TKC would propose and implement prices for the commercial tracts once the Master Plan was developed.

Commissioner Blount asked if the Board would have “veto power” in the proposed commercial uses. Mr. Lewis said he was not opposed to presenting a completed Master Plan to the Board. Mr. Lewis said it was not his recommendation to put a gas station or fast food restaurant in the park.

Commissioner Blount asked if the \$35,000 for marketing and the \$20,000 for land planning was the total “up front” costs to the County. Mr. Lewis said yes and confirmed that the marketing expenses would be phased from year to year.

Mr. Russell said the up front costs were available in “Reserves” from the sale of the property to M.I. Home Products.

Commissioner Belk said she was very impressed with the park TKC developed in Lincoln County during a three-year downturn in the economy. Commissioner Belk expressed hopes that TKC could exceed its job performance in Lincoln County. Mr. Lewis said a key to success is support from the governmental agency, Economic Development Commission, County Manager and the citizens. Mr. Lewis discussed the success of the Lincoln County Park.

Commissioner Mitchell mentioned the estimated \$20,000 for Land Planning and noted that there were not a lot of funds left for the hourly rate. Mr. Lewis said he anticipated that the \$20,000 would be sufficient for the first year and the TKC would request any necessary funding “going forward.” Mr. Lewis said the goal was to leverage TKC’s relationship to employ the Land Planning group as a civil engineer and land planner for specific developments. Mr. Lewis said if this were the case, TKC would be funding the cost. Mr. Lewis said the County was not funding the cost to do Land Planning for any specific development that TKC might develop in the park.

Commissioner Tadlock questioned the economy and asked if it was the right time to move ahead in developing the park. Mr. Lewis said, “I believe it is.” Mr. Lewis continued by saying TKC was seeing a lot of activity in the region and the counties surrounding Charlotte. Mr. Lewis felt it was an excellent time to re-market the park.

Commissioner Belk moved to approve the contract with the Keith Corporation as presented. Commissioner Blount seconded the motion.

Chairman Andrews repeated the motion and requested that the price adjustments be included. Commissioner Blount also requested that the County Attorney review the contract.

The motion and requested additions to the motion passed unanimously.

Chairman Andrews thanked Mr. Lewis and said the County looked forward to a partnership with the Keith Corporation.

PRESENTATION ON THE PROPOSED STRATEGIC PLAN COMMITTEE

Dr. John Wear and Bill Wagoner presented the proposed Strategic Plan Committee.

Mr. Wagoner recalled that in the mid-to-late 90’s the County Commissioners established a Strategic Planning Group. Mr. Wagoner said a presentation

was made to the Board in February 2004 and the Commissioners requested that strategic planning be performed on a continuous on-going basis.

Dr. Wear highlighted the involvement of greater than 2,000 people in the process. Dr. Wear said strategic planning provided a long-term vision of what the county “should and could be.” Dr. Wear referred to businesses that had closed and others that had poor air quality and said strategic planning could help in these areas. Dr. Wear said that formalizing the Strategic Plan Executive Committee would create a “specific body of people that can help keep that process going into the future and help make recommendations to you.” Dr. Wear said the group consisted of volunteers.

Mr. Wagoner said to insure a continuous on-going strategic planning process, by-laws had been developed for the establishment of a Strategic Planning Commission. Mr. Wagoner said the proposed by-laws were in the agenda packets for the Board’s consideration. Mr. Wagoner said a list of approximately sixteen (16) people was also being presented to serve on a multi-year basis to develop and continually provide strategic planning.

Mr. Wagoner requested that the Board consider endorsing the by-laws and the first initial list of commission members.

Commissioner Blount clarified that thirteen (13) people were listed on the proposed commission and said three (3) slots was not yet appointed. Commissioner Blount said it would be appropriate for the Board to make any recommendations to add to the list.

Chairman Andrews commended the Executive Committee for its active involvement in bringing the Strategic Plan to the Board.

Commissioner Blount moved to adopt the by-laws and the list of proposed members as presented. Commissioner Tadlock seconded the motion and the motion carried unanimously.

PUBLIC HEARING FOR Z-07-04 AND CUP-06-04, OWNER WILLIAM KLUTTZ

Chairman Andrews read the Chairman’s Speech (Exhibit A) and declared the public hearing for Z-07-04 and CUP-06-04 to be in session. Chairman Andrews said the hearing would focus on applications submitted by William Kluttz for his property located off of Watkins Farm Road. The applications were for the rezoning of Tax Parcel 806-038 from Rural Agricultural (RA) to Industrial (IND) and included an accompanying parallel conditional use district limiting uses on the property to the dead storage of automobiles based on the attached site plan.

The Clerk swore in three people wishing to provide testimony in the case.

Shane Stewart of the Rowan County Planning Department located at 402 North Main Street, Salisbury, provided the Staff Report (Exhibit B). Mr. Stewart discussed the background and said in early March of 2004 Staff had received a complaint concerning the dead storage of automobiles located on Watkins Farm Road on property owned by William Kluttz. Mr. Stewart said a March 15th site visit by staff confirmed that violation was taking place on the property.

Using a power point presentation (Exhibit C), Mr. Stewart referred to a map and pointed out the area that was grand fathered in 1998 in regards to zoning and the placement of dead storage of automobiles. Mr. Stewart said the area was on the property owned by James Kluttz, neighbor of William Kluttz.

Mr. Stewart said the property in question is a 5.25-acre tract and a portion of the cars that were grand fathered in 1998 are located on William Kluttz's property. Mr. Stewart used the power point presentation (Exhibit C) to depict the area in violation.

Mr. Stewart said the issue before the county was a rezoning request from RA to IND with a Conditional Use Permit (CUP) that would allow the cars already located on the site (noted in red in the power point presentation – Exhibit C).

Mr. Stewart continued with the power point presentation (Exhibit C) and showed a photo taken in late April that depicted the location of the cars with a good portion of the vehicles extending close to Watkins Farm Road. Additional photos (Exhibit C) were shown, including:

- A photo of a staff visit to the site on June 17, 2004. Mr. Stewart said on that visit, "That particular area of the cars was pulled back approximately 50' from center line." Mr. Stewart said the 50' setback would be in compliance with an IND rezoning request.
- A photo that showed the property line that separates William Kluttz from James Kluttz's property.
- A photo of a redlined area that separated the grand fathered area of the 5.25 acres versus the cars that were in violation.
- A photo showing the extent of the number of vehicles. Mr. Stewart estimated the number of vehicles to be approximately 250 in the redlined area. Mr. Stewart said the cars had apparently been "out there for a number of years but based on the location of the cars, they are just piled on cars and there doesn't appear that any salvage is taking place."

- A photo of the area across from the property. Mr. Stewart described this as “undeveloped land” with a singlewide site built home. Mr. Stewart also said part of the land was in the LandTrust.
- A photo showing the “last extent” of vehicles that extend down Watkins Farm Road from the Kluttz’s shop.
- A photo facing NC 801. Mr. Stewart said there is approximately 100’ setback from the edge of the cars to the property line.
- A photo showing a view from NC 801. Mr. Stewart said the cars are extremely noticeable and based on the contour information, there is approximately a 30’ drop-off from NC 801 to the first area where the cars are located.

Mr. Stewart reviewed the Zoning Criteria (Exhibit B) in the Staff Report as follows:

1. Relationship and conformity with any plans and policies. Mr. Stewart said when the surrounding area is predominately rural and zoned RA, a general Planning Board policy for any IND rezoning has been to encourage the applicant to submit a site-specific plan accompanied by a parallel conditional use permit. In this case, Mr. Kluttz has submitted an application specifically limiting the uses on his property to automobile dead storage (SIC 4226).
2. Consistency with the requested zoning district’s purpose and intent. Mr. Stewart said the industrial district provides for activities mainly involving the manufacturing, processing, assembling, storing and distributing of products on property with access to a major highway or rail service. Mr. Stewart said there are certain provisions that could be established in rural areas if they are protected through an accompanying parallel conditional use district.
3. Compatibility of all uses within the proposed district classification with other properties and conditions in the vicinity.

Compatibility of uses: Mr. Stewart said the neighboring property of James Kluttz had a similar land use, zoned RA, with approximately six (6) acres devoted to the storage of automobiles. Mr. Stewart said, “It is somewhat compatible in that respect but across the road for the most part is rural land.”

Conditions in the vicinity: Mr. Stewart referred to the map (Exhibit C) to point out the industrial zoning on Needmore Road, approximately one (1) mile away from the Kluttz property. Mr. Stewart used the power point presentation (Exhibit C) to

point out several commercial (CBI) zoned properties as well as the mixture of single-family and mobile homes along NC 801.

4. Potential impact on facilities such as roads, utilities and schools. Mr. Stewart said there did not appear to be a significant impact on the roads with the request.

Mr. Stewart discussed the Conditional Use Criteria (Exhibit B) as follows:

- a. Adequate transportation to the site exists. The site has nearly 700' of frontage along Watkins Farm Road and adequate site distance.
- b. The use will not significantly detract from the character of the surrounding area. The impact on the area will be limited through the issuance of a parallel conditional use district that limits the 5.25 acres. Mr. Stewart said the request is similar to an adjacent land use comprised of approximately 5.5 to 6 acres.
- c. Hazardous safety conditions will not result. Mr. Stewart said the use was for storage as opposed to wholesale of salvaged material.
- d. The use will not generate significant noise, odor, glare or dust. Mr. Stewart said the site was located on a dirt road, which would create additional dust with the wrecker service. With only two (2) residences located on this private road, the excess dust should not significantly impact the area.
- e. Excessive traffic and parking problems will not result. Mr. Stewart said the request was not likely to generate traffic problems.
- f. The use will not create significant visual impacts for adjoining properties or passersby. Mr. Stewart said screening is not required per Section 21-219 since the proposal states a 100' side setback coupled with the existing residence located approximately 130' from the rear lot line. Mr. Stewart said there is no screening required. Mr. Stewart said the use is easily visible from NC 801.

Mr. Stewart said several items from the site plan that might be modified and were suggested by the applicant include:

- Setbacks: 50' front, 100' side on western lot line and no proposed setback for eastern and rear lines.

- Proposed number of automobiles would not increase over 250, which is basically what is currently on the property.
- The applicant proposes 125 evergreen trees separated three feet apart to create a 375-foot screen along Watkins Farm Road.

Mr. Stewart discussed Staff's Recommendation (Exhibit B) and said the application would introduce IND zoning to the area. Mr. Stewart said the location was "somewhat hidden" from the general public on a private road, adjacent to a similar land use. Mr. Stewart said staff recommended approval of the request with the following conditions:

1. Based on the conditions stated earlier and as noted on the site plan
2. Plant evergreen trees along the western side lot line to block NC 801 viewshed of site to create a continuous screen.
3. Provide a 6-foot opaque fence along the western side lot line.
4. Ensure the 50-foot front setback is maintained.

Mr. Stewart said staff had received several calls concerning the case and a lot of the information was portrayed at the Planning Board Hearing. Mr. Stewart said two (2) persons spoke against the case at the hearing:

1. Aileen McNeil represented members of the Erwin Temple CME Church and some family and friends residing near the rezoning. Their concerns were the unsightliness of the area, additional vermin this would facilitate and potential soil contamination.
2. Lucille Geter who reiterated the unsightliness of the vehicles and dust from Watkins Farm Road.

Mr. Stewart said the Planning Board recommended approval of the request on a 7-3 vote with:

1. The screening along Watkins Farm Road modified from 375' to 640,' which would be the entire frontage along Watkins Farm Road.
2. Obtain a Phase I Environmental Study of the property within 90 days.

In response to a query from Commissioner Blount, Mr. Stewart used the power point presentation (Exhibit C) to point out the location of the recommended 6' fence along the side of the property, in addition to the trees in order to block the viewshed from NC 801. Mr. Stewart also pointed out the Planning Board's suggested screening along the entire frontage. Mr. Stewart said he felt more comfortable with the recommendation.

Commissioner Blount asked if cars would have to be moved if the Board rejected the rezoning. Using the power point presentation (Exhibit C), Mr.

Stewart said, "The 250 cars located in this red box would have to be removed." Mr. Stewart confirmed to Commissioner Blount that the Board would have "no say" over the remaining cars. Mr. Stewart pointed out a "blue line" and said the 50-acre tract belongs to James Kluttz, brother of the applicant.

Commissioner Blount said the Board could not make Mr. Kluttz move the cars nor make Mr. Kluttz screen that portion of the property. Mr. Stewart said that conditions could be attached to the application that would require the applicant to screen the existing and the new area.

Commissioner Tadlock asked how many cars were in the "blue area" and Mr. Stewart responded that the answer was not known. Mr. Stewart said the estimate he had provided for the "red" area was only an "approximation."

Commissioner Belk asked if more cars could be added to the "blue." Mr. Stewart said, "The extent could not be increased and we would have to look back at the Code Enforcement files to see how many we would recommend, or how many we would determine appeared to be grandfathered."

Commissioner Belk questioned the Phase I Environmental Study. Mr. Stewart said a typical Phase I study would "skim the surface" to determine potential contamination and a Phase II was more in depth as to contaminants on the property.

Commissioner Belk asked what would happen if contaminants were found in a Phase I study. Mr. Stewart said the Planning Board recommended that a study be performed within 90 days. Mr. Stewart felt it would be more appropriate to table the issue for 90 days to wait on the study results.

Commissioner Blount said past experience with other projects demonstrated that Phase I was a study of the records to determine the history of any type of pollution in the area such as gas stations or underground tanks. Commissioner Blount said to "actually do soil tests and check below the surface you have to get into Phase II." Commissioner Blount said cars had been stored on the property for a long period of time and said he felt a Phase II study would reveal any land problems.

Commissioner Belk asked what would happen if the request were approved and contaminants were found "down the road." Commissioner Blount said the Board would "vote subject to no contaminants being found or if contaminants were found, they would be cleaned up." Commissioner Blount said if the contaminants were not cleaned up, the approval would be voided. Commissioner Blount turned to Attorney Holshouser for advice on the issue.

Attorney Holshouser responded that if contaminants were found, environmentalists would perform their own investigation and make recommendations.

Commissioner Mitchell referred to the power point presentation (Exhibit C) and asked if the limit of 250 vehicles not currently grandfathered would eliminate the addition of new vehicles on the property, “red and blue outline.” Mr. Stewart said for this request, it would be 250 located in the area noted on the site plan, which is the area in red. Mr. Stewart said the applicant was asking for approval of what currently exists. Mr. Stewart said Codes Enforcement would determine how many cars existed and how many could be added. Mr. Stewart repeated that the request was for approval of the existing cars.

Chairman Andrews said he had heard the presentations at the Planning Board hearing and one of the concerns was the location of the property being at the fork of the South Yadkin River and Yadkin River. Chairman Andrews questioned the proximity of the property to the river. Mr. Stewart recalled that this “particular request” was approximately 1,000’ from the creek and the Yadkin River was approximately 2,000’.

Marion Lytle, County Planner, confirmed to Commissioner Tadlock that the creek flowed into the Yadkin River.

Chairman Andrews opened the public hearing to receive comments from those that had been sworn in.

1. Aileen Watkins McNeil said she was born and raised in “that area” and she associated the Watkins in her name to Watkins Farm Road. Ms. McNeil said she was a third generation of Watkins Farm Road. Ms. McNeil said she represented the community and “we are opposed, adamantly, vehemently opposed to rezoning that area from RA to IND. Ms. McNeil said Mr. Stewart’s presentation was correct and she said James Kluttz’ business had been at its location, approximately since the 1970’s. Ms. McNeil said, “But that doesn’t mean that we liked it.” Ms. McNeil said the business was located when there were no zoning laws and the business was grandfathered when zoning was implemented. Ms. McNeil said, “We are very much opposed to adding to the mess that James already has. His cars are already out of control.” Ms. McNeil said the presentation referred to another junk car business further down NC 801 and it’s “very unsightly.” Ms. McNeil said the neighborhood had recently met and discussed the issue and the residents are very concerned with the possibility of the land being

rezoned IND. Ms. McNeil said, “We realize that once that happens, that anything goes.” Ms. McNeil said the County does not have the staff or resources to monitor what takes place at the business. Ms. McNeil said, “We are a predominantly African-American neighborhood and we feel like we’re being taken advantage of.” Ms. McNeil said the residents “don’t have a beef with William Kluttz as a person but we really resent the fact that he has his business out on Rowan Mill Road here in Salisbury and has chosen to...bring it up and dump it in our neighborhood.” Ms. McNeil said there was no reason the two (2) businesses could not be separated.

Ms. McNeil said the residents were also concerned that “as a neighborhood we are looked at every time people come into Rowan County from Davie County to visit that River Park that they have created up there.” Ms. McNeil said the park is accessed through her neighborhood. Ms. McNeil said in addition to adding insult to injury, the businessmen are creating to what amounts to a “slum.” Ms. McNeil said, “We are just being dumped on all around and it’s just time for us to, as a county, have some concern.” Ms. McNeil referred to property (no specific name mentioned) that had been “cleaned up” on Bringle Ferry Road on the way to Dan Nicholas Park and said, “We deserve the same kind of consideration.” Ms. McNeil said, “People look at us and they think, well, African-Americans and slums go together.” Ms. McNeil felt the Commissioners should take another look at the situation and review what the residents are being subjected to. Ms. McNeil stressed that the residents were upset.

Ms. McNeil said the proposed recommendations from the Planning Board leave the residents feeling as though “it’s just a band-aid being put on the problem.” Ms. McNeil said the Planning Board had admitted that the recommendations could not be enforced. Ms. McNeil said Mr. Kluttz had violated the zoning laws and she said, “We’re not confident that he won’t violate the recommendations.”

Ms. McNeil said the residents did not want their neighborhood to be “slummed down anymore and have these businessmen come in and act as though they’re absentee slumlords.” Ms. McNeil requested that the County Commissioners take action on behalf of the residents.

A round of applause followed Ms. McNeil’s concerns.

2. William Kluttz of 1204 Rowan Mill Road said he was the property owner. Mr. Kluttz said the trees needed to be “dropped back some” in order to provide “a way to get into the lot.” Mr. Kluttz said the pines

shouldn't go any further than what is grandfathered in and "putting trees up all the way, that's going to block me off all the way." Mr. Kluttz said he had to have an opening.

Chairman Andrews asked Mr. Kluttz how long he had been putting cars on the site.

Mr. Kluttz responded "a long time" and estimated fifteen (15) years on the portion that had been grandfathered in. Mr. Kluttz said he had been putting cars on the "other" portion for approximately ten (10) years. Mr. Kluttz said the site was "just a storage facility."

In response to a query from Chairman Andrews, Mr. Kluttz agreed that 250 was a "pretty close" estimate to the number of cars on the site. Mr. Kluttz said there had not been "many more than that" at one time.

Chairman Andrews questioned the process used for removing fluids from the cars.

Mr. Kluttz said, "Before we get rid of the cars, they come pick up the cars. They drain everything out and clean everything out and all that right there, the people we sell the cars to." Mr. Kluttz said he doesn't remove any parts because the cars "don't belong to me yet." Mr. Kluttz said, "When I get everything straightened out, then we sell them."

Chairman Andrews asked if some of the cars were leaking.

Mr. Kluttz said it was possible but he didn't think "it would amount to anything."

When Chairman Andrews asked if the cars had been wrecked.

Mr. Kluttz said "very few" had been wrecked.

Chairman Andrews asked Mr. Kluttz if he stored cars at any other site.

Mr. Kluttz responded that he stored cars at his shop.

Commissioner Tadlock referred to the power point presentation (Exhibit C) and asked Mr. Kluttz when he first began to store cars in the "red block area."

Mr. Kluttz was unsure and estimated the storage began in 1997.

Commissioner Tadlock pointed out that the storage began taking place after zoning was implemented.

Mr. Kluttz mentioned the “blue area”.

Commissioner Tadlock emphasized that he was referring to the “red area.”

Commissioner Tadlock repeated his question as to when storage of cars began in the “red area.”

Mr. Kluttz said approximately since 1997. Commissioner Tadlock said the storage began before zoning, which was implemented in February of 1998.

Chairman Andrews said the property in “blue” was grandfathered. Chairman Andrews asked Mr. Kluttz if he realized he was not in compliance with the other site.

Mr. Kluttz said he was unaware that he was not in compliance until this issue was raised.

Commissioner Blount inquired as to why the cars in the “blue area” had not been hauled off.

Mr. Kluttz said there had been a lot of cars “hauled off” and put back in. Mr. Kluttz responded to Commissioner Blount that no cars had been left permanently in the area. Mr. Kluttz said cars are sold and more are brought in.

Chairman Andrews asked if the business in the “blue” area was a salvage company where car parts are sold.

Mr. Kluttz said, “Yes” and confirmed that the business belonged to James Kluttz. Mr. Kluttz said parts were not sold off the cars in the “red area.” Mr. Kluttz said the area was just for storage.

Commissioner Mitchell asked Mr. Kluttz if he had any other place to store the cars in “red.”

Mr. Kluttz responded no.

Commissioner Tadlock questioned the average length of stay for the cars stored in the “red.”

Mr. Kluttz said it could be six months to one year.

Chairman Andrews said he had rode out and looked at the area and that a lot of the cars are so close together that the area couldn't be mowed.

Mr. Kluttz said he stacks the cars close together to provide enough room to walk around.

Mr. Stewart said he would like to make one (1) clarification based on staff's records. Mr. Stewart referred to the power point presentation (Exhibit C) and said the "red area" was completely free of any cars and the only cars located on the property were in the area in blue that extended over the property line. Mr. Stewart pointed out the property line and the cars that were brought in after zoning.

Commissioner Blount asked if the area in "blue" was rezoned to include a junkyard classification. Mr. Stewart said the area was still zoned RA.

In response to further questioning from Commissioner Blount, Mr. Stewart said he had not spoke with Codes Enforcement Officers as to the actions on the property and the code the actions would fall under. Mr. Stewart said he had only looked at the particular request before the Board.

At this point, County Planner Marion Lytle was sworn in.

Commissioner Blount questioned the enforcement authority the county had over the area that had been grandfathered as a junkyard. Commissioner Blount said the owners had testified that parts were being salvaged from cars that are stored in the "blue area." Commissioner Blount asked if this area would have to operate under the junkyard ordinance. Mr. Lytle responded (tape was changed at this point and did not record Mr. Lytle's response).

Commissioner Blount asked Mr. Lytle if he was aware of any effort to maintain the grounds in the blue area. Mr. Lytle responded no. Mr. Lytle said he felt sure the existing area was not in compliance with the zoning ordinance.

Commissioner Blount said it was important for him to know if the county could enforce the zoning requirements for the "blue area." Mr. Lytle said the county could enforce and require screenings and plantings that would provide a visual barrier, prevent the cars from being stacked up, prevent the cars from being crushed outside of the operational area. Mr. Lytle said there was not a lot of language in the ordinance concerning the weeds and mowing.

Mr. Lytle confirmed to Chairman Andrews that he was discussing the grandfathered “blue area.”

Commissioner Blount asked if the rezoning were to be approved, if it would also apply to the “red area.” Mr. Lytle said the Board had “a lot of leeway in the red area as far as what you specify him doing within this permit,” including mowing.

Chairman Andrews said he would like to direct several questions to “both parties.” Chairman Andrews referred to the Conditional Use Criteria (Exhibit B), Item b: “The use will not significantly detract from the character of the surrounding area.” Chairman Andrews felt adding another 200-250 automobiles would detract from the surrounding neighborhood. Chairman Andrews questioned how the opinion was formed that the use would not detract from the surrounding area. Mr. Lytle said the approach was taken that “James Kluttz is not going away.” Mr. Lytle said under the current guidelines Mr. Kluttz could be required to install a fence and plant trees “but beyond that we can’t do a whole lot.” Mr. Lytle said staff could “hide” what exists and try to “police” the area. Mr. Lytle said staff sympathizes with the neighbors and explained that staff and the Planning Board were attempting to “conceal” what exists. Mr. Lytle said screening the property line on Watkins Farm Road could visually be better for the neighbors and as far as the “character of the surrounding area,” there was another non-conforming salvage yard and a water plant for a textile mill within the area. Mr. Lytle said staff was not discounting the concerns of the neighbors, but looked at the request as a “chance to perhaps improve the situation somewhat.” Mr. Lytle said the salvage yard was not going away.

Chairman Andrews again referred to the Conditional Use Criteria (Exhibit B), Item c: “Hazardous safety conditions will not result.” Chairman Andrews questioned possible rodent infestation hazards. Mr. Lytle said the site would clearly harbor a lot of mice and he described this as a “tough situation.” Mr. Lytle said he had spoke with the Health Department about the vermin issue. Mr. Lytle stressed it would be “a tough call to make.” Mr. Lytle said the more hazardous conditions occurring on the property would be the crushing of the cars and the possibility that the fluids are not properly contained.

Chairman Andrews said it appeared to him that the 250 cars did create a visual impact to the neighborhood. Mr. Lytle said the finding would be grounds to turn down the request. Mr. Lytle said staff was making a recommendation but could see that the visual impact was an issue. Mr. Lytle said, “That is grounds to turn it down but you need to be sure that it is backed up by something entered into the minutes.” Mr. Lytle said clearly the addition of 250 cars was an impact and the cars were several hundred feet

closer to the houses, more visible from NC 801 and more visible from the intersection of Needmore Road than it was before.

Chairman Andrews questioned the enforcement the items taken from the site plan proposal that could be modified (Exhibit B under Conditional Use Criteria). Mr. Lytle said staff could go through the area at least once weekly to check on compliance and to note the activities on the property. Mr. Lytle said, "enforcement is difficult."

Commissioner Mitchell asked if cars would still be visible from NC 801 and Watkins Farm Road without any cars located in the "red area." Mr. Lytle responded yes. Mr. Lytle confirmed to Commissioner Mitchell that the proposed screening would not only help "hide" the 250 cars in "red" but all that were in the "blue."

Commissioner Blount referred to comments that if the property were to be rezoned IND that "anything goes." Commissioner Blount said that the conditional use permit would only allow the requested use "until they come back at a future date and ask for a change in the conditional use permit."

Chairman Andrews added that the Bull Hole is a park that has been revitalized with grant funds. Chairman Andrews said the intersection of Needmore Road is the prime entrance to the park and protecting the "integrity of the community and the neighbors there is a critical point for Rowan County."

With no further comments, Chairman Andrews closed the public hearing.

Commissioner Tadlock made a motion to disapprove the rezoning and conditional use permit request. Commissioner Belk seconded the motion.

Commissioner Blount voiced concern about rejecting the rezoning and conditional use permit; the board could subject the owner too much more protective screening requirements for the neighbors.

Commissioner Belk responded that the owners mentioned the plantings would "block him off" and asked if the plantings would be put in and allowed to grow the way they are suppose to grow. Commissioner Belk also voiced concern about the closeness of the Yadkin River and the possible contamination from the runoff, the unsightliness to the area, with the health hazardous caused from the inability to mow. Commissioner Belk questioned the request to plant something that has been grandfathered.

Commissioner Tadlock added that his concerns were for safety, health and contamination.

Commissioner Mitchell added that he was “leaning” to grant the request. Commissioner Mitchell stated that in a broader perspective, “that one day the rules and regulations that government are putting on people are going to be demanded to come off. And I think that we are just hurrying that process along.”

The motion passed on a 4-1 vote to disapprove the zoning and conditional use permit request. Commissioner Mitchell voted “no” to the motion.

Findings of Fact for CUP-06-04 were stated to be:

- The visual impacts created environmental impact with the water and contamination.
- Hazardous conditions that might be created.
- Significantly distracts from the surrounding community.

Chairman Andrews called for a brief break at 9:10 pm.

Chairman Andrews called the meeting back to order at 9:15 pm.

APPROVAL OF SW-02-04, A REQUEST FROM BETTY POWERS

Shane Stewart of the Rowan County Planning Department provided the background regarding the request. Mr. Stewart reported that in December of 2000, the R.C. Powers Heirs recorded their 94-acre estate settlement into five (5) lots, with John and Betty Powers receiving 27 total acres (noted as Exhibit A). Mr. Stewart said approximately one (1) year later Ms. Powers applied for a 5.47-acre tract for her daughter, Beverly Padgett (noted in Exhibit B).

Mr. Stewart said Ms. Powers requested a second family subdivision on July 16, 2004 for three (3) additional lots to be conveyed to her stepchildren (noted in Exhibit C).

Mr. Stewart said per the Rowan County Subdivision Ordinance, a family subdivision is defined as a subdivision of not more than three (3) lots plus the residual tracts.

Mr. Stewart said the subdivision proposal would allow for an equal division of four (4) 5.471-acre tracts on Tax Parcel 230-068.

Mr. Stewart highlighted the Staff Report and Section 21-54 of the Rowan County Subdivision Ordinance. Mr. Stewart said the Board of Commissioners could conduct a legislative hearing, which typically does not require evidence, sworn testimony, findings of fact or limiting conditions as in quasi-judicial cases presented to the Zoning Board of Adjustments (ZBA).

Mr. Stewart reviewed the following considerations:

- Nature of the proposed subdivision
- Existing use of the land in the vicinity
- Number of persons to reside or work in the proposed subdivision
- Probable effect of the proposed subdivision upon traffic conditions in the vicinity

Mr. Stewart said staff recommended approval for an additional subdivision lot for family.

Commissioner Mitchell moved to approve the request. Commissioner Blount seconded the motion.

Chairman Andrews opened the floor for citizen input regarding the request.

1. Steve Wall addressed the Board and said he owned the “first piece” of 400’ right-of-way” into the property. Mr. Wall said he owned the right-of-way on one side, adjacent or sided by the Presbyterian Church. Mr. Wall said this was the first time he had heard about the subdivision. Mr. Wall said he had issues with the drive into the property, saying the road was poorly maintained, if at all. Mr. Wall said no rock had been put on the road in years and that speeding was erratic. Mr. Wall asked how a subdivision request could be made without notification to adjacent property owners.

Mr. Stewart responded and said the request was not required to be posted and Chairman Andrews explained that it was a family subdivision and therefore advertising and posting was not required.

Mr. Wall said the last property owner who “put a house in there” had to request from himself, the church and other owners of the right-of-way, to use the right-of-way.

County Planner Marion Lytle said the individual would be subject to the same standard. Mr. Lytle said, “This doesn’t remove the requirement from subdivision review. This just allows for the creation of the additional lot and the right-of-way requirements and all other subdivision standards will be met.” Mr. Lytle continued by saying, “If there are restrictions on that right-

of-way, then it is up to the person that is seeking the subdivision to acquire/procure the right-of-way.” Mr. Lytle said the request does not say “he can cross the right-of-way; this allows him to begin the process of getting four (4) lots instead of three (3) for a family.”

Mr. Wall responded that he understood what Mr. Lytle had explained but said his question for the Board and the Planning Board was, “What keeps one person from getting a right-of-way and then “opening it up to one-hundred people?” Mr. Lytle responded that the “right kind of language” must be included in the right-of-way to prevent this restriction.

Upon being put to a vote, the motion on the floor passed unanimously.

PUBLIC HEARING ON THE PROPOSED TEXT AMENDMENTS CONCERNING HEAVY IMPACT LAND USES

Assistant County Planner Ed Muire presented the information regarding the proposed text amendments. Mr. Muire said the proposed text contained clarifications that were discussed at the previous board meeting. Mr. Muire said the text amendments appeared in the agenda packets as bold and italicized.

Mr. Muire highlighted the following recommended changes:

- ❑ Section 21-4. Addition of definitions for “health care facility” and “operational area.”
- ❑ Section 21-60(2). Addition of specific conditional use criteria for the manufacturing group uses in the Industrial (IND) zoning district that requires financial surety for site rehabilitation; Type A screen along frontage of the operational area; Type B screening along side and rear of operational area; ½ mile separation distance from churches, daycares, schools, health care facilities and public parks.
- ❑ Section 21-60(5)(d). Incorporated this item into the new standards.
- ❑ Section 21-113. Removing chemical and allied products (SIC 516) and petroleum and petroleum related products (SIC 517) as conditional uses in the Commercial, Business, Industrial (CBI) zoning district and remain only as conditional uses in the IND zoning district.

Mr. Muire said Commissioner Mitchell had prompted staff to take an inventory to determine how many existing businesses in the county would be impacted by the proposed text. Mr. Muire said staff had exempted the businesses that were in existence prior to the effective date of the amendment, “whatever that may be,” from “some of these requirements”.

Mr. Muire said the text was “covered earlier this month” and offered to answer any questions the Board might have.

Commissioner Belk questioned the text regarding the separation distance. Mr. Muire was of the opinion that the text would not apply to “ball fields or things of that nature; the way it is written now would apply just to the structures – the buildings themselves.” Mr. Muire said it might be open to interpretation.

Commissioner Blount said he also had concerns regarding the separation distance and asked that staff work up “clarification on the separation.” Commissioner Blount read from a handout and suggested revision, saying, “Basically the addition to the existing text is that we measure any portion of the property dedicated or utilized for the function of the church, daycare, public or private school, health care facility or public park including but not limited to buildings, recreation and parking areas, etc.”

Mr. Muire pointed out Item f included clarification for temporary use permits.

Commissioner Blount asked which SIC Code an asphalt plant would fall under. Mr. Muire responded SIC 29. Commissioner Blount asked for an example the SIC 3612. Mr. Muire said this would be a manufacturer of transformers that could have toxic materials. Mr. Muire confirmed to Commissioner Blount that Primary Metal Industries were “foundries” and that metal working facilities would not fall under the manufacturing group. Mr. Muire provided an example of Carolina Stalite as a company under SIC 329. Mr. Muire continued to explain the SIC codes and to provide examples to the inquiries from Commissioner Blount.

Chairman Andrews opened the public hearing to entertain citizen input regarding the proposed text amendments. Chairman Andrews said those that had signed up to address the Board were limited to three (3) minutes due to the large number that had signed up. Chairman Andrews asked that those speaking for a “group of people” to please indicate so when they come forward.

The Clerk called the following citizens to come forward to address their concerns were presented to the Board:

1. Joanne Hull, Pastor of Prospect Presbyterian Church in southwestern Rowan County. Pastor Hull asked those representing the church to please stand (a large group was present). Pastor Hull said the growing 400-member church had been an anchor in the Prospect community since 1824. Pastor Hull said the community consisted of residences,

church property, racing-related business (which she said had become “our good neighbors”) and farms. Pastor Hull said the group was concerned about asphalt plants and other heavy impact industry and the proposed zoning text changes. Pastor Hull said the community was under the threat of an asphalt plant that would be adjacent to the church property, beside their ball field. Pastor Hull said thousands of dollars had been spent to upgrade the field. Pastor Hull said the church partners with the City of Mooresville to run recreation programs from the site. Pastor Hull applauded the moratorium on the construction of new asphalt plants and said, “We support the text changes recommended to you by the Planning Board staff and the Planning Board.” Pastor Hull praised the screening requirements and described the separation distance as the “protective heart of the ordinance text.” Pastor Hull said the church enthusiastically supports the proposed text. This statement was followed by a round of applause. Pastor Hull hoped for clarification “concerning the second sentence of letter ‘h’.” Pastor Hull supported the language suggested by Commissioner Blount regarding the separation issue. Pastor Hull said asphalt is a necessary product for society however they did not belong next to places such as schools, daycares, health care facilities and churches. Pastor Hull felt asphalt plants should be located away from where people live, farm, convalesce, worship and recreate. Pastor Hull requested that the Board consider including residences in the ½ mile separation requirement. Pastor Hull requested that the Board approve the proposed text with all deliberate speed, “tonight if possible.” A second round of applause was given.

2. Mike Anderson said he represented Prospect Presbyterian Church and discussed the air quality impacts associated with operations of asphalt plants. Mr. Anderson said according to the EPA, asphalt plants were a major source of hazardous air pollutants. Mr. Anderson cited numerous health issues caused by air toxins. Mr. Anderson said proponents of asphalt plants “tell you” emissions are regulated and approved by the EPA. Mr. Anderson said, “What they don’t tell you is that most asphalt plants are not even tested” and the emissions released are estimated by computers and mathematical formulas as opposed to monitoring. Mr. Anderson said that standards might eventually be set regarding the emissions but questioned the causes of mysterious ailments. Mr. Anderson said the church and the community recognize that asphalt plants are necessary but putting an asphalt plant in a “highly residential recreation area” was a bad idea. Mr. Anderson asked that the Board follow the “Golden Rule: Do unto others as you would have done unto you.” A round of applause followed Mr. Anderson’s comments.

3. Woodrow “Sonny” Freeze of 555 Shin Farm Road said he felt as though he was also speaking for the church. Mr. Freeze said he was a property owner approximately one (1) mile downstream of where a proposed asphalt site might locate. Mr. Freeze said he was also a member of Prospect Presbyterian Church. Mr. Freeze spoke in favor of the Planning Board’s proposal concerning the location of asphalt plants. Mr. Freeze expressed concern with spills from the asphalt plant and the contamination to the water quality of the residential wells. Mr. Freeze said if the water was contaminated, there was no alternative water source for the area. Mr. Freeze said the area was in the Coddle Creek Watershed and any runoff from spills would flow downstream into the Coddle Creek Reservoir. Mr. Freeze said the reservoir was the source of water supply for the City of Concord. A round of applause followed the comments of Mr. Freeze.

4. Lisa Stapleton spoke in favor of the proposed ordinance. Ms. Stapleton said she was a resident of Rowan County and a member of Prospect Presbyterian Church. Ms. Stapleton expressed concerned with the health risks involved with the location of an asphalt plant in a residential area. Ms. Stapleton said, “According to the EPA, these plants release cancer-causing toxins in the air during production, plus other toxic chemicals into the air when asphalt is loaded onto the trucks.” Ms. Stapleton cited the health issues that might arise from exposure to the toxins. Ms. Stapleton discussed a study performed by the Blue Ridge Environmental Defense League and the negative impact on the health of those living nearby. Ms. Stapleton referred to articles in the Salisbury Post concerning health issues of those living in the Milford Hills/Meadowbrook subdivisions. Ms. Stapleton said the neighborhoods were located near an asphalt plant in Salisbury. Ms. Stapleton asked the Board to consider adopting the proposed text and to include residences in the text. A round of applause followed Ms. Stapleton’s comments.

5. Craig Mills said he was a deacon of Prospect Presbyterian Church and said he lived on Shinn Farm Road. Mr. Mills discussed the current traffic issues “with the asphalt company.” Mr. Mills said he had been “run off the road” by the company trucks numerous times. Mr. Mills said he feared for his children to ride their bicycles in the area. Mr. Mills discussed the potential for more accidents if the processing plant were to be located in the area. Mr. Mills said the area is located on the Rowan-Iredell county line and it “would really take a long time” for law enforcement to respond to accidents. Mr. Mills recommended adding “residences” to the ordinance. A round of applause followed the comments of Mr. Mills.

6. Vance Moore said he represented Prospect Presbyterian Church and the Shin Farm/Juniper Road community. Mr. Moore expressed concern with “noise” and said excessive noise was an emotional and physical health hazard. Mr. Moore said this had been confirmed by studies conducted by state and private sound engineers. Mr. Moore said the state monitors air, water and land pollution but did not monitor noise. Mr. Moore said there were no laws controlling noise in the State of North Carolina. Mr. Moore said local leaders must set the standards for noise. Mr. Moore said the location of an asphalt plant would create new and increased noises such as heating devices, conveyors, etc. Mr. Moore said there would be an increase in trucks and traffic noise, including the necessary “annoying required by OSHA back-up alarms.” Mr. Moore said the citizens in the area must already deal with traffic concerns. Mr. Moore felt the proposed text was important and requested that the Board include “residences” in the proposal. A round of applause followed Mr. Moore’s comments.
7. Wayne Ervin of 149 Oak Meadow Road distributed a handout and said he was a realtor. Mr. Ervin said he lived approximately one mile from the proposed site. Mr. Ervin discussed property values close to asphalt plants. Mr. Ervin approved of the proposed text changes with the addition of “residences.” Mr. Ervin said property values increase/decrease depending on its surroundings. Mr. Ervin said studies show properties around asphalt plants decrease in value. Mr. Ervin referred to Salisbury Post articles concerning an asphalt plant in Rowan County. Mr. Ervin asked the Board to protect the property owners. A round of applause followed Mr. Ervin’s comments.
8. Steve Waugh of 9655 West NC 152 Highway said he lived approximately 1,000 feet west of the proposed site. Mr. Waugh said he was married with three (3) daughters and that he was an elder and member of Prospect Presbyterian Church. Mr. Waugh said he was concerned for the health of his family, the church congregation and the surrounding community. Mr. Waugh said he was concerned for the loss of property value. Mr. Waugh said the issues of air quality, noise, ground water, unsightliness, increased traffic and loss of property value would be repeatedly discussed, and therefore he chose to talk about the heritage and history of the area. Mr. Waugh said Prospect Church was established in 1824 and had served as an anchor in the community. Mr. Waugh cited the history behind two (2) historical markers on the church grounds and the importance of the church and its heritage to the history of Rowan County. Mr. Waugh said that approximately 373 church members use the facility seven (7) days per week. Mr. Waugh reported that over 300 odor related complaints had

been filed relative to existing plants located in Rowan County. Mr. Waugh appealed to the Board to protect the church and its heritage and those who find the community their home. A round of applause followed Mr. Waugh's comments

9. Lou Zeller a staff member of the Blue Ridge Environmental Defense League said he supported the proposed changes as outlined with the "addition of residential or dwelling houses to the setbacks." Mr. Zeller said he had traveled across the state, country and other countries to document the negative effects from asphalt plants. Mr. Zeller said the documented plants were legally operated, which under present operations seem to be having a negative effect on the communities in which they are constructed. Mr. Zeller provided an example saying, "Odors as far as 3200 feet away have been detected in communities with existing asphalt plants in North Carolina." Mr. Zeller said some of the odors are reported to him by residents living one-half mile from the plants, including the winter months. Mr. Zeller said Ashe, Wilkes and Hillsborough have existing ordinances, with Ashe having withstood a court challenge from an asphalt company. Mr. Zeller provided his company website, www.bred1.org and continued to talk about odor problems. Mr. Zeller submitted for the record a letter from Dr. Richard Weisler to the state health director regarding the impact of asphalt plants on communities. Mr. Zeller said Dr. Weisler grew up in the Milford Hills area in Rowan County. Mr. Zeller described Dr. Weisler as a practicing physician who was also "working in experimental area of medicine to develop new types of drugs." Mr. Zeller said Dr. Weisler's findings are devastating concerning the neurological impacts from the pollutants of asphalt plants. Mr. Zeller had handout with his presentation. A round of applause followed Mr. Zeller's comments.
10. Mike Moore said he was speaking on behalf of Prospect Presbyterian Church and Cub Scout Pack #302. Mr. Moore supported the proposed text amendments with the addition of "residential." Mr. Moore addressed concern with odors from asphalt plants. Mr. Moore said the church ball field area is used "almost nightly." Mr. Moore said Prospect Presbyterian Church chartered Cub Scout Pack #302 and that he was the Cub Master for the group. Mr. Moore said the church had acreage that was ideal for outdoor scouting activities and camping but the asphalt plant would hinder the activities. Mr. Moore praised the Board for beginning the meeting with the Pledge of Allegiance. Before closing, Mr. Moore explained that he lived "off 150 right across the county line." Mr. Moore mentioned the potential for increased

traffic, saying there are already numerous traffic accidents in the area. A round of applause followed Mr. Moore's comments.

11. James Kipka said he lived in the area and was a member of Prospect Presbyterian Church. Mr. Kipka asked the Board to "totally stop the asphalt plants in Rowan County." Mr. Kipka suggested that contractors put up "temporary" asphalt plants that must leave the area once a road is paved. Mr. Kipka mentioned several plants that could "truck" the asphalt to the necessary sites. A round of applause followed Mr. Kipka's comments.
12. Don Howie of 640 Dogwood Lane in Davidson said he was a member of Prospect Presbyterian Church. Mr. Howie said the real issue was the proposed language. Mr. Howie said he was concerned with the ground water and the fact that the community relies on wells as its only choice for water. Mr. Howie asked the Board to insure that asphalt plants locate in areas where there is a "second choice" (such as municipal water) and people are not denied the right for safe drinking water. A round of applause followed Mr. Howie's comments.
13. Kathy Toliver, a member of Prospect Presbyterian Church, said she lived directly "in front of this place." Ms. Toliver mentioned concerns regarding noise, dust, and decreasing property value due to the asphalt plant. Ms. Toliver said her property had been in the family for many years and she planned to pass the property on to her son. Ms. Toliver asked the Board to insure that the best decision would be made for the church, her community and her property. A round of applause followed Ms. Toliver's comments.
14. Wade Carrigan said water was important to everyone and to the community. Mr. Carrigan said if the Board would approve the proposed text, "it will help the water." Mr. Carrigan said the same water is used many times and that "we must figure out a way to keep it clean." A round of applause followed Mr. Carrigan's comments.
15. Randy Baker said he lived across from the proposed asphalt plant. Mr. Baker applauded the efforts to adopt the proposed text but that he was disappointed and concerned with the reluctance to add "residential dwellings" to the text. Mr. Baker said he had attended all meetings leading up to the current proposal and that members seemed to be "shy" about including residential dwellings. Mr. Baker said there is a need for asphalt plants but they do not belong "in the middle of this neighborhood." Mr. Baker felt the plants belonged in a high industrial impact area. Mr. Baker shared a recent experience regarding an asphalt plant on Poplar Tent Road and the volume of paving that occurs at night. Mr. Baker said he spends time on his job studying human physiology. Mr. Baker said it has been scientifically proven that healthy sleep patterns provide optimum mental performance. Mr. Baker said the trucks would hinder the sleep patterns of those in the community. Mr. Baker said the greater good of the entire community

should not be sacrificed for the financial prosperity of one (1) individual. A standing ovation and a round of applause followed Mr. Baker's comments.

16. Bill Hart, a resident of the community and member of Prospect Presbyterian Church said an asphalt plant would have a devastating affect on the community. Mr. Hart requested that the Board not allow the asphalt plant to locate in the area. Mr. Hart also asked the Board to add "residences" to the text. A round of applause followed Mr. Hart's comments.
17. Leonard Wood, Public Health Director of Rowan County, said he could not add to what had already been presented by the group. Mr. Wood's perspective was that the health of the community was paramount and that all avenues must be considered for the health of the community. Mr. Wood mentioned that approximately 3-4 years ago, concerns were raised regarding the asphalt plant on Hwy 601. Mr. Wood said he, along with community members and members of the Department of Public Health at the state level, had evaluated a variety of issues. Mr. Wood said, "we" don't have definitive data but it is "pretty clear based on the complaints from the community" about the emissions from the plants. Mr. Wood encouraged the Board to consider adoption of the proposed text. A round of applause followed Mr. Wood's comments.
18. Walter Teeter of 1380 French Belk Road said his family had been part of Rowan County for over 100 years. Mr. Teeter said his family farms and the proposed site could potentially drain into the creeks that cattle are watered from. Mr. Teeter said the asphalt plant was a danger not only to the community and the environment but to livestock as well. Mr. Teeter encouraged the Board to support the proposed text and the support "a way of life." A round of applause followed Mr. Teeter's comments.
19. Joanne Ashley distributed a handout to the Board. Ms. Ashley said she was an attorney representing Pedulla Excavating and Paving and that she was opposed to the ordinance as written. Ms. Ashley said, "This does not represent or affect just that one small area. It affects the entire county." Ms. Ashley said her clients were not opposed and understood the need for the financial surety for "these types of uses." Ms. Ashley referred to screening and said her clients go "above and beyond." Ms. Ashley referred to the handout and current photos of the screening of the facility. Ms. Ashley said, "Our concerns are with the separation." Ms. Ashley suggested the mention of daycare in the proposed text should be changed to reflect a "licensed daycare and not just any daycare." Ms. Ashley said it was the Board's choice to zone the area IND approximately six (6) years. Ms. Ashley said there must be some expectation that these types of facilities would locate in the area. Ms. Ashley asked if "public or private school" included those children that are home schooled. Ms. Ashley referred to health care facility and said, "We have no concern whatsoever and understand the need for that." Ms. Ashley said her biggest concern was with the church. Ms. Ashley said daycares, schools and

health care facilities are facilities that operate a minimum of five (5) days per week and “a church does not.”

With Ms. Ashley’s last comment, the audience became loud forcing Chairman Andrews to tap his gavel to restore order.

Ms. Ashley said, “We have taken the opportunity to monitor the activities of Prospect Presbyterian Church and in fact, many days of the week, there’s absolutely no cars or no use of the facility whatsoever.” Ms. Ashley reported the predominant use of the church to be on Sundays.

Upon hearing Ms. Ashley’s comments, the audience again became loud. Chairman Andrews again used the gavel to restore order and said citizens would be asked to leave if they were not respectful of the speaker. Chairman Andrews pointed out that the previous speakers were not interrupted and asked that current speaker be given the same opportunity.

Ms. Ashley continued by saying the church was monitored “because my clients are concerned that they’re not impacting the people around them negatively.” Ms. Ashley stressed the church was “not regularly used as was indicated tonight.” Ms. Ashley said comparisons were made “tonight” to other facilities, particularly a facility in Salisbury. Ms. Ashley asked the Board to keep in mind that the facility was “grandfathered in” and the EPA and the Division of Air Quality have since changed the standards. Ms. Ashley reported the standards were more stringent. She referred to the handout and an article from the Division of Air Quality that “North Carolina has one of the most stringent requirements as far as emissions in the entire United States.” Ms. Ashley said the previous speakers were comparing her client’s facility to facilities that had been grandfathered in, that weren’t required to meet the emissions standards.

Ms. Ashley referred to the previous mention of water spills and explained that products of an asphalt plant must be kept at a minimum of 250 degrees in order to be used. Ms. Ashley said, “Therefore if it is actually spilled, it cools so fast that it cannot go more than one or two inches into the ground. It cannot affect the water quality.”

Ms. Ashley referred to the Blue Ridge Environmental Defense League and encouraged everyone to visit the website to look at the statistics provided. Ms. Ashley said the information “was not even scientific.” Ms. Ashley said, “They went door to door and said what problems do you have.” Ms. Ashley said the statistics were not scientifically performed and therefore had no direct correlation to the asphalt plant.

Ms. Ashley said the mention of the asphalt plant causing brain cancer “was a result of the Salisbury plant that was not meeting the current emissions standards because they were grandfathered in.”

Ms. Ashley said her clients do “live in this area and they’re taxpayers.”

Ms. Ashley referred to the mention of the asphalt plants on Poplar Tent Road and said there were three (3) facilities there that were commercial contracts. Ms. Ashley said, “My clients have no intention of doing commercial contracts.” Ms. Ashley reported that her client employed forty (40) people and approximately ten (10) more could be employed.

Ms. Ashley said her client’s intent was to do a “batch plant” meaning the asphalt is done as needed. Ms. Ashley said a batch plant would have daytime operations and there would be no nightly or Sunday operations during church hours.

Ms. Ashley referred to the mention of computer-generated emissions testing and said, “That’s where our society is. In fact, the computer-generation is done under much more stringent standards and under the worst possible environmental conditions that they could possibly come across.”

Ms. Ashley discussed an article in the handout that discussed benzene.

Ms. Ashley asked the Board to base its decision on facts and not on fears that had been generated. Ms. Ashley asked the Board to investigate the information she had provided. Following Ms. Ashley’s comments, a few people in the audience clapped.

20. Mitch Johnson said he was a lawyer from Statesville, North Carolina. Mr. Johnson said he had been hired by Ken and Ernie Ervin who have property located next to the church. Mr. Johnson read a portion of section h in the proposed text, regarding “separation.” Mr. Johnson expressed concern with the language and suggested that the Board adopt the appropriate language concerning the expansion of a facility “on that actual site.” Mr. Johnson proposed adding the following language, “Unless the proposed expansion fails to adjoin the physical operational site of the pre-existing facility.” Mr. Johnson asked the Board to listen to the voices of its constituents. A round of applause followed Mr. Johnson’s comments.
21. J.D. Meredith, a 62-year member of Prospect Presbyterian Church said he lived within a half-mile of the project. Mr. Meredith said his wife has 30% of her “lung power” while he himself is on medication. Mr. Meredith said he had always heard of “these things” coming into thriving, health communities and adding misery and medical bills to the citizens. Mr. Meredith said it was good to see the younger generation stand before the Board for “what is right and to give up the fact that prosperity don’t always mean money.” Mr. Meredith asked

the Board to “help us protect that.” A round of applause followed Mr. Meredith’s comments.

Chairman Andrews closed the public hearing,

Commissioner Mitchell stated as an editorial comment coming from a civics teacher that this was the way representative democracy is suppose to work “and I wish that it would work like this more often.”

Commissioner Mitchell made a motion to approve the proposed text amendments with the addition of Commissioner Blount’s replacement “h”. Commissioner Tadlock seconded the motion.

Commissioner Belk voiced concern for the need to tighten the language as suggested that any expansion must be adjacent to the existing structure in order to eliminate anything unforeseen.

Commissioner Blount expressed concern for the consideration that the separation from residential structures might be a problem, which is why the questions were asked on the SIC codes, which are polluting industries. Commissioner Blount added that the Board is not allowed to zone something out of existence in our community and if the separation from residential structures would zone this out of existence, then the amendment would be illegal. However Commissioner Blount added he wanted to “test the waters” and the Board has an opportunity to limit the location of polluting industries to industrial zoned areas.

Commissioner Blount made a motion to amend the motion to add residences to the separation requirements in the language of item “h”. Commissioner Belk seconded the motion.

Chairman Andrews added that daycares should be listed as “licensed” daycares.

Commissioner Mitchell stated that adding residences would include home schools.

Commissioner Blount asked to add a clarification to the motion to amend that it would be from an existing inhabited dwelling.

Commissioner Belk questioned the language to clarify the expansion. Commissioner Blount responded that “where it states that the facility shall be no closer than ½ mile from a church, daycare, public or private school,

health care facility or public park – I would just add or an existing inhabited dwelling.”

Commissioner Belk questioned the last sentence of “h” to which John Holshouser, County Attorney, stated the following language: *“The standards of this item are not applicable to expansions of facilities regulated under this subsection which are contiguous to the facilities which existed prior to the effective date of this amendment.”*

Commissioner Mitchell questioned “existing as of what point in time?” Mr. Holshouser responded that it would be at the date of application.

Commissioner Mitchell asked what sort of area are the restrictions for the heavy impact uses once residences are added. Commissioner Blount added that they would be “severely” restricted.

Chairman Andrews questioned if any business that is zoned industrial could put in an asphalt plant? Mr. Lytle responded that existing asphalt plants could expand asphalt facilities; existing brick plants could expand brick facilities, etc.

Commissioner Blount asked if this amendment would cause any harm to which Mr. Lytle and Mr. Holshouser both responded that they did not know. Mr. Holshouser added that a study would need to be done.

The Board continued to discuss concerns about adding residences.

Mr. Holshouser stated that the Board had policing powers to create ordinances that are broad enough to take action on what is in the best interest of the citizens and if any challenges were to come about, it would be if the language was so restrictive it totally discriminated against this particular type of facility throughout the entire county.

Chairman Andrews stated that the amendment to the motion is to add existing inhabited dwellings to the original motion.

The motion passed on a 3-2 vote with Commissioners Belk and Mitchell voting against the motion.

Commissioner Blount made a motion to amend the motion with the additional language made by John Holshouser on existing sites and also to add “licensed” daycares. Commissioner Mitchell seconded the motion.

The motion passed unanimously.

Commissioner Mitchell restated his motion to include the two amendments; to move to approve the proposed zoning text amendments with Commissioner Blount's changes to "h" then the amendments to add the residences or any inhabited building in addition to changing the definition of schools to public and private and licensed daycares and the expansion.

The motion passed unanimously.

Chairman Andrews stated that an application is not on file for an asphalt plant and the public hearing dealt with the proposed text amendments for heavy impact industries and businesses coming to Rowan County, which covers numerous industries and businesses that could cause pollutants.

Chairman Andrews thanked those that came for the public hearing.

Moratorium

Commissioner Mitchell made a motion to lift the moratorium. Commissioner Blount seconded the motion, which passed unanimously.

PUBLIC COMMENT PERIOD

No one addressed the Board for Public Comment.

Chairman Andrews called for a break at 11:05 pm.

EXECUTIVE SESSION

Chairman Andrews called the Board into Closed Session at 11:15 pm to hear from the county attorney on a litigation matter.

ADJOURNMENT

Chairman Andrews called the Board back into open session and with no further business to discuss, the meeting was adjourned at 11:30 pm.

Respectfully Submitted,

Rita K. Foil, CMC
Clerk to the Board