

**MINUTES OF THE MEETING OF THE
ROWAN COUNTY BOARD OF COMMISSIONERS
October 18, 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

Tim Russell, County Manager, Rita Foil, Clerk to the Board, John Holshouser, County Attorney and Leslie Heidrick, Finance Director were also present.

Chairman Andrews convened the meeting at 7:00 pm.

Commissioner Mitchell provided the Invocation and Commissioner Tadlock led the Pledge of Allegiance.

ADDITIONS

- Commissioner Mitchell requested to add a discussion on recent concerns about the online access of land records from the Register of Deeds Office. This was added as item 5B.
- County Manager Tim Russell requested to add an update on the plans for Summit Corporate Center to be presented by Alan Lewis of the Keith Corporation. This was added as item 3B.
- Commissioner Blount requested a closed session to discuss recent litigation.

Chairman Andrews wished Commissioner Mitchell a Happy Birthday and expressed pleasure in getting an early start to enjoying his birthday cake.

LIAISON REPORTS

Commissioner Belk expressed that she was honored to accept grant funding in the amount of \$100,000 of a \$900,000 project through the Centralina Council of Governments (COG) for Truck Stop Electrification. Commissioner Belk explained that this project is part of a clean air initiative and will help greatly in working to make the air cleaner in Rowan County.

CONSIDERATION OF THE CONSENT AGENDA

Commissioner Mitchell moved to approve the Consent Agenda. Commissioner Blount seconded and the motion passed unanimously. The Consent Agenda consisted of the following:

- A. Approval of the 10/4/2004 Minutes
- B. Approval to set a public hearing for approval of the CTP grant application from RTS
- C. Approval of surplus sale of office and vehicle equipment
- D. Approval to award the service side arm to retiring Sheriff's Officer
- E. Approval to authorize the Director of Administration to sign over vehicle titles from county auction sale
- F. Approval of Airport Grants
- G. Approval of program debt write-off from the Health Department
- H. Budget Amendments

REQUEST FOR APPROVAL OF VEHICLES FOR THE ROWAN COUNTY SHERIFF'S DEPARTMENT

Leslie Heidrick, Finance Director, reviewed the request to purchase seven (7) 2005 Ford Crown Victoria Police Interceptors from Cloninger Ford in Salisbury. Ms. Heidrick explained that the Rowan County Sheriff and the Finance Department are recommending piggybacking off of a contract that was entered into with the City of Salisbury on September 9, 2004. Ms. Heidrick explained that in accordance with the NCGS 143-129(g), a notice of waiver of competitive bidding was advertised in the Salisbury Post for this purchase.

Ms. Heidrick said the cost of each vehicle is \$20,150.00, which is less than the current State Contract.

Commissioner Blount asked if this was within budget to which Ms. Heidrick responded that it was.

Commissioner Blount moved to approve the purchase of seven (7) 2005 Ford Crown Victoria Police Interceptors as requested by staff. Commissioner Belk seconded and the motion passed unanimously.

(CONTINUATION) REQUEST FOR APPROVAL TO PROCEED WITH THE AMPHITHEATER PROJECT FOR THE NEW SOUTH ROWAN LIBRARY

Architect Bill Burgin and Rowan County Library Director Phil Barton reviewed the previous request for approval to proceed with the amphitheater project for the new South Rowan Library. Mr. Barton emphasized that this project was part of the original plans for the South Rowan Library and is estimated to cost approximately \$150,000. Mr. Barton said that approximately \$196,000 remains in the construction funds, including \$49,600 designated for site preparation.

Mr. Barton said that the design work for the amphitheater would require about \$4,000 in additional architectural fees, bringing the total additional cost for the amphitheater to approximately \$154,000. Mr. Barton proposed that any unused construction and site preparation funds be set aside as a contingency fund for this project. Mr. Barton said that site preparation may need to be moved to construction.

Mr. Barton showed a drawing of the amphitheater.

Mr. Burgin explained the area for the outdoor amphitheater was designated for approximately 200-300 people. Mr. Burgin continued by describing the amphitheater and stage area.

In response to a query from Commissioner Blount regarding drainage, Mr. Burgin used the map to point out and discuss the drainage from the bank towards the tree area.

Commissioner Blount asked if lighting for the amphitheater was included in the package. Mr. Burgin responded yes and said there were two (2) poles where those who wished to enhance their performances could hang lights.

Commissioner Blount asked if there would be any other electrical or sound system built in. Mr. Burgin said, "no." Mr. Burgin said there would be "electrical" but the sound system would have to be brought in.

Chairman Andrews said when the project was proposed, it had an amphitheater and that funds were raised with the completed facility. Chairman Andrews noted that the project had been able to stay within its established budget.

Commissioner Andrews moved to continue the construction of the South Rowan Library by completing the amphitheater. Commissioner Mitchell seconded and the motion passed unanimously.

ADDITION: UPDATE ON SUMMIT CORPORATE CENTER

Alan Lewis from the Keith Corporation provided an update on the marketing progress of Summit Corporate Center (SCC). Mr. Lewis said the Master Plan is

a work in progress and was the best effort to illustrate what could be done with each parcel in the park. Mr. Lewis used a map to describe the possible uses of various tracts in SCC, including a 24,000 square foot retail service office/flex space and a restaurant site. Mr. Lewis said discussions would continue with Leo Wallace regarding the restrictions for placement of a hotel.

Mr. Lewis said a formal announcement would be made in the Business Journal and the Master Plan would be used as a marketing tool for SCC.

Mr. Lewis used the map to discuss parcel values and to continue to highlight the uses for SCC.

Mr. Lewis said he would present recommended changes for the covenants at the next board meeting. Mr. Lewis felt some of the covenant regulations were too severe and “would penalize us relative to some competing parts of the region.”

Mr. Lewis reported that contact had been made with vendors concerning the certified site process and the information would be completed in next few weeks and would be incorporated into the Master Plan.

Commissioner Blount questioned the purpose of the building between the AAP building and the interstate? Mr. Lewis said the site was more of a high-end manufacturing site.

Mr. Lewis verified with Chairman Andrews that he would discuss the covenant adjustments with Mr. Russell and the adjustments would be presented to the Board.

Mr. Lewis requested permission to make a formal announcement in the Business Journal “this week” in an effort to get the information into the market.

Commissioner Belk moved to allow the Keith Corporation to make the official announcement to start the marketing for SCC. Commissioner Belk thanked Mr. Lewis for his work. Commissioner Tadlock seconded and the motion passed unanimously.

PUBLIC HEARING FOR Z-18-04 ZONING TEXT

Acting Planning Manager Ed Muire reviewed the request for Planning Staff initiated text amendments to Section 21-4; 21-57; 21-58; 21-62(d)(2); and Section 21-314(a) and (c) of the Rowan County Zoning Ordinance to substitute the usage of the term “planning manager” for “county planner”. Mr. Muire explained that this change is in response to a recent lawsuit that challenged this position’s authority, in addition to reclassifications by the county human resources department.

Staff requested approval of the proposed text amendment changes.

Commissioner Blount recalled a prior challenge concerning whether the Board had officially appointed the former Marion Lytle as County Planner. Commissioner Blount asked if the proposed amendments “took care the issue.” Mr. Muire said, “That was taken care of in an earlier text amendment.”

Chairman Andrews opened the public hearing to entertain citizen input regarding Z-18-04.

With no one in attendance who wished to address the Board, Chairman Andrews closed the public hearing and called for Board discussion or for a motion.

Commissioner Blount moved to approve the zoning text amendments as presented by staff. Commissioners Belk and Tadlock seconded and the motion passed unanimously.

APPROVAL OF DISPOSITION OF PROPERTY AT TWO LOCATIONS FROM THE ROWAN/SALISBURY SCHOOLS

Jim Christy, Assistant Superintendent of the Rowan/Salisbury Schools (RSS) came before the Board to request the disposition of two (2) properties owned by the school system.

Mr. Christy said the school system owns property that is adjacent to West Rowan Middle School and explained that the tract includes approximately four (4) acres of land as well as a house. The property was acquired when the school system built West Rowan Middle School and is identified as the Wyttenbach House. Mr. Christy recalled the previous Board meeting and said the Commissioners had expressed an interest in the property as a possible EMS site.

Mr. Christy reported there was also an additional eight (8) acres to the west side of the property and the school board was proposing to dispose of this property as well.

Mr. Christy asked if the Board would like to purchase the designated five (5) acres with the Wyttenbach House.

Chairman Andrews turned to County Manager Tim Russell for a staff update regarding the property. Mr. Russell said staff had looked at the site and he suggested that the Board accept the offer and enter into an agreement to acquire one (1) or two (2) acres of the seven (7) for the use of a potential EMS site.

Commissioner Blount moved to accept staff’s recommendation to negotiate with the schools to acquire approximately two (2) acres for a west Rowan ambulance site and to release the schools to dispose of the remainder of the property at their discretion.

In response to a query from Commissioner Tadlock, Commissioner Blount said the Board did not want the house.

Commissioner Belk seconded and the motion passed unanimously

Mr. Christy explained that the second property was the Dunbar Center, which is formally the old North Rowan Middle School property. Mr. Christy said that the property is no longer economically feasible or necessary for public school purposes. A dossier was included in the Board's packets for review.

Mr. Christy said that the RSS no longer feel that these properties are necessary for public school purposes and in accordance with Chapter 115C-518 of the Public School Law, RSS would like to offer the property to the Board of Commissioners for a fair market price or at a price negotiated between the two (2) boards. Mr. Christy said that if the Board does not choose to obtain the property, the Board of Education intends to proceed with the disposition of the properties.

Commissioner Blount made a motion to delay a decision for 30 days. Commissioner Mitchell seconded the motion. Upon being put to a vote, the motion on the floor passed unanimously.

ADDITION: RECENT CONCERNS ABOUT ONLINE ACCESS OF LAND RECORDS FROM THE REGISTER OF DEEDS OFFICE:

Commissioner Mitchell said it was brought to his attention that the Register of Deeds (ROD) office "was placing public records online, which we voted to purchase the equipment for and we voted to allow." Commissioner Mitchell said he personally owed the public an apology "because at that time I didn't realize that some of this information included individual social security numbers." Commissioner Mitchell felt this information was "highly inappropriate to place on a public website." Commissioner Mitchell said the documents being referred to were "public information" and understood that this information could also be retrieved by going to Google.com. Commissioner Mitchell stressed that it was wrong to put a social security number "anywhere, much less on a government website."

Commissioner Mitchell explained that at his request, the Clerk, Rita Foil, had researched the issue and found through the Institute of Government that the Board of Commissioners could determine the method for making the information available to the public. Commissioner Mitchell said he understood that there was currently no law in place that required the records be made available online or "what portion of those records are online." Commissioner Mitchell reported that sometime in the early nineties, attorneys had stopped having their clients list their social security numbers on their deeds. Commissioner Mitchell said some individuals had called him after they had pulled up their own Deed of Trust dated after 1995 and the information was still there.

Commissioner Mitchell said, "I think we have a very serious problem when we have not only the social security number, but the person's signature right above it." Commissioner Mitchell stressed that problems with identity theft were "close to a crisis." Commissioner Mitchell said the information is public record but didn't have to be easily accessible from the Internet.

Commissioner Mitchell informed the Board about a bill in the Senate and the House, both of which would prohibit local governments from posting individual social security numbers on the website. Commissioner Mitchell reported the House Resolution number as 2971 and the Senate Bill as number 2801. Commissioner Mitchell said action had not yet been taken on the proposed bills by the respective bodies, but he pointed out that the federal government is taking action against allowing the social security numbers to be published.

Commissioner Mitchell moved that until it can be determined what documents have social security numbers on them and how to get those particular documents off the Internet, that the Board completely remove online access to the ROD documents. Commissioner Tadlock seconded the motion for the purpose of further discussion.

Commissioner Blount pointed out that the motion indicated inclusion of all ROD documents. Commissioner Blount asked if there were some documents that didn't need to be included. Commissioner Mitchell responded that medical information was already protected.

Commissioner Blount shared Commissioner Mitchell's concern but said he wanted to be sure that "we don't take something that is beneficial" offline. Commissioner Mitchell said only the ROD could answer the question concerning which documents would be completely safe to use. Commissioner Mitchell explained that his motion was providing time to "figure out what needs to be kept on." Commissioner Mitchell said he was informed that "editing" the documents would be considered defacing a public record. Commissioner Blount felt that defacing a public record would apply to the original document but questioned editing what is put online.

Commissioner Tadlock asked if the information was manually accessible to the public prior to being placed online. Commissioner Mitchell responded yes.

Chairman Andrews said he felt very strongly about the information being made available online and shared the same sentiments as Commissioner Mitchell regarding the issue. Chairman Andrews expressed concern that when the information was available online, it was also accessible to any foreign country around the world. Chairman Andrew said when he looked up his information on the website, his bank account number was also listed. Chairman Andrews said he preferred that neither his social security number nor his bank account

numbers be listed. Chairman Andrews said, "There is something wrong with our system when that is allowed to happen." Chairman Andrews said he strongly felt that until the proper avenue for protecting the citizens could be determined, he supported the motion.

Commissioner Blount amended the motion to establish a subcommittee consisting of Commissioner Mitchell, Chairman Andrews and County Manager Tim Russell, to meet with the ROD to resolve the issue.

Commissioner Tadlock asked if the information would remain online pending the outcome of the meeting. Commissioner Blount responded that Commissioner Mitchell's original motion would suspend the information immediately and the amendment would allow the subcommittee to act as quickly as possible in an effort to resolve the issue.

Commissioner Tadlock seconded the amendment and the amendment was approved unanimously.

At the request of the Chairman, the Clerk repeated the motion and the amendment as the following: Until it can be determined what documents have social security numbers on them and how to get those particular documents off the Internet, the Board would completely remove online access to the ROD documents. And a subcommittee would be established, consisting of Commissioners Mitchell and Andrews and Mr. Russell to meet with the ROD to resolve the issue.

Upon being put to a vote the motion passed unanimously.

UPDATE THE PROGRESS OF THE COUNTY AIRPORT TRANSITION

Tim Russell said it would be an understatement to say the County had faced a challenge regarding the transition of the airport operations from the current FBO to Rowan County Government.

Mr. Russell distributed a letter and updated the Board on the issues and the inventory at the airport. Mr. Russell said it had taken the FBO approximately one (1) week to create the inventory for inspection and pricing. Mr. Russell said the Finance staff had done a "great job" in performing the inventory.

Mr. Russell highlighted the handout including the parts inventory pricing, fuel, and assets. Mr. Russell said the net price payable to the FBO for the purchase of their assets was \$95,330. Mr. Russell reported that there had been difficulties due to a lien that was placed on the assets by a creditor, Eastern Aviation Petroleum. Mr. Russell said Attorney Holshouser had researched the lien and the assets were "put up as collateral" for a credit line for the FBO in order to purchase fuel from Eastern Aviation. Mr. Russell said in order to sell their assets, the FBO must have the lien disposed of. Mr. Russell said due to the lien

being worth more than \$95,000, Eastern Aviation is concerned about releasing the lien, which was approximately \$200,000. Mr. Russell said the anticipated transition date of October 11, 2004 had been moved to October 18, 2004. Mr. Russell said the FBO had still not agreed to the purchase largely because of the lien. Mr. Russell said that Attorney Holshouser had spoke with the attorney for Eastern Air and Eastern had agreed to accept the payment in part for the line of credit owed to them by Salisbury Air Service. Mr. Russell said the County had not heard from Salisbury Air Service or their attorney as to how they would handle the lien. Mr. Russell said the County was prepared to assume operations within 48 hours of the signing of the agreement. Mr. Russell said the County was waiting on the FBO and Eastern Aviation to reach a resolution.

In response to a query from Commissioner Tadlock, Mr. Russell said \$95,000 would go to the lien holder but it would not take care of the lien. Mr. Russell said Eastern Aviation would have to release the lien and that he felt there would still be some debt owed by Salisbury Air Service to Eastern Aviation.

Commissioner Tadlock questioned how the County could be guaranteed that the debt would not become a liability. Attorney Holshouser said Eastern Aviation was a party to the agreement and would have to sign off on the agreement. Attorney Holshouser said there would be a joint directive from all parties telling the County what to do.

Mr. Russell said the County was ready and in place to assume the operations with staff. Mr. Russell said the County was waiting on the resolution to the issue.

Commissioner Tadlock said the effort was a "job well done."

BOARD APPOINTMENTS

Juvenile Justice Crime Prevention Council (JCPC)

Commissioner Tadlock made a motion to approve the reappointment of Arnold Chamberlain, Jon Corriher, Terry King and Janet Ruffin and Woodcock and Duncan. The motion passed unanimously.

Mr. Russell explained that a JCPC subcommittee had reviewed the issue of conflict of interest for JCPC members who are also recipients of JCPC funding. Mr. Russell explained that the subcommittee had recommended that the service providers become ex-officio members in order to avoid the perception of a conflict of interest.

The motion passed unanimously.

Rowan County Board of Health

Chairman Andrews said Norman Sloop and Martha Harrell were not eligible for reappointment and he praised their outstanding service on the Board.

Commissioner Tadlock made a motion to appoint Gary Fink to the physician position subject to the termination of the contractual agreement with the Rowan County Health Department. The motion passed unanimously.

Commissioner Tadlock nominated Martha Baker for the nursing position and Chairman Andrews nominated Mary Henley for the nursing position.

The nomination to appoint Mary Henley was approved with Chairman Andrews, Commissioner Mitchell and Commissioner Blount supporting the nomination.

Commissioner Blount nominated Barbara Andrews to the public position. The nomination passed with 4 votes, with Chairman Andrews abstaining.

Attorney Holshouser discussed the language in the statutes concerning the fact that members of the Board of Health receive a stipend for compensation. Mr. Holshouser said that for Ms. Andrews to serve, spouses come under the same language as public officials and she would have to forego her salary of \$40. Commissioner Blount pointed out that Ms. Andrews would not begin her term on the Board of Health until January and at that time, Chairman Andrews would no longer be an elected County Commissioner.

Salisbury-Rowan Human Relations Council

A replacement is needed for Harold Thomas who is not eligible for reappointment

Town of Rockwell – ETJ Planning Board

Commissioner Tadlock made a motion to appoint Debbie Miller to fill the position of the ETJ Planning Board member. The motion passed unanimously.

Community Advisory Committees (CAC): Adult Care Home Community Advisory Committee and the Nursing Home

Clerk to the Board Rita Foil presented the Board with an update on a recent meeting with Hillary Kaylor, the Ombudsman coordinator from COG and the CAC members. Ms. Foil explained that the meeting was to address issues and concerns about the appointments made to these committees.

Ms. Foil explained the past difficulty in recruiting and maintaining volunteers to serve on these two committees, due in part to the requirements of attending training sessions and the required daytime visitations conducted during daytime hours.

Ms. Foil reviewed the current status of the two committees and recommended approval of the following:

1. Approval to send letters to the administrators of the adult care and nursing home facilities requesting recommendations to the CAC.
2. Approval to reappoint Leah McFee, Ken Beck and Benita Ballard to the Rowan County Nursing Home Advisory Committee.

3. Consideration for the Board of Commissioners to review at a future meeting, offering a stipend and/or mileage to volunteers that serve on county boards.

Commissioner Blount made a motion to approve the request from staff as presented. Commissioner Belk seconded the motion, which passed unanimously.

Commissioner Tadlock recommended advertising the various board vacancies in the newspaper and the Clerk agreed that this would be done.

PUBLIC COMMENT PERIOD

Chairman Andrews open the floor to receive public comments from those in attendance.

Since no one came before the Board, Chairman Andrews closed the public hearing.

Chairman Andrews called for a break at 8:15 pm

CLOSED SESSION: TO CONSULT AN ATTORNEY

According to NCGS 143.318(a) for the purpose to consult an attorney, Chairman Andrews declared the Board in Closed Session at 8:25 pm.

Chairman Andrew brought the Board back into Open Session at 9:00 pm

COMMISSIONERS COMMENTS

Commissioner Tadlock addressed the Board and asked who has the authority to address junk yards in the ETJ areas. Commissioner Tadlock gave the example of China Grove Road being in the ETJ of China Grove and there appears to be an expansion of dealing with tires illegally.

Commissioner Tadlock questioned the cost of disposing of tires and who receives these funds. Commissioner Tadlock said that he witnessed several truck loads of tires followed by heavy equipment entering a junk yard and questioned if these tires were being buried. Don Conner, Director of Environmental Services, answered that tires can be disposed of free and added that tires cannot be buried. Mr. Conner stated that the county receives funds from the state for the disposal of tires. Mr. Conner said that the county is required by the state to take the tires at no charge and dispose of them using the State Tire Tax funds.

Mr. Russell verified that the county has jurisdiction over “burying tires” and said that staff would visit this site and report back to Commissioner Tadlock.

Chairman Andrews asked Mr. Muire if he had settled into his new position. Mr. Muire responded that he was still adjusting.

ADJOURNMENT

With no further business to discuss, Chairman Andrews adjourned the meeting at 9:10 PM

Respectfully Submitted,

Rita K. Foil, CMC
Clerk to the Board