

**MINUTES OF THE MEETING OF THE  
ROWAN COUNTY BOARD OF COMMISSIONERS  
SEPTEMBER 6, 2005 – 7:00 PM  
J. NEWTON COHEN, SR. ROOM, ADMINISTRATION BUILDING**

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Present: Arnold Chamberlain, Chairman  
Jim Sides, Vice-Chairman  
Steve Blount, Member  
Chad Mitchell, Member  
Frank Tadlock, Member

Assistant Clerk to the Board Carolyn Athey, Interim County Manager/Finance Director Leslie Heidrick and County Attorney Jay Dees were also present.

Chairman Chamberlain called the meeting to order at 7:00 pm.

Commissioner Sides provided the Invocation and also led the Pledge of Allegiance.

**ADDITIONS/APPROVAL OF THE AGENDA**

- Commissioner Blount said the Board had received a request to withdraw the request for PCUR 01-05. Chairman Chamberlain pointed out that the withdrawal stated that Planning Staff members John Hanes and Shane Stewart had conducted themselves in a “very professional” manner and that the withdrawal had nothing to do staff’s conduct.
- Commissioner Sides added a discussion regarding a school zone for Millbridge School
- Commissioner Sides added a discussion concerning a fulltime employee who works from his home.
- Chairman Chamberlain stated he had an item of correspondence to share with the Board.
- Chairman Chamberlain requested that Coyt Karriker of the Rowan County Rescue Squad be allowed to address the Board regarding assistance efforts to Hurricane Katrina victims.

- Chairman Chamberlain referred to Item #4 and added consideration of a possible hearing date on the Broadcast Tower issue.

Commissioner Mitchell moved to approve the agenda, including the additions and deletions to the agenda. Commissioner Blount seconded and the motion passed unanimously.

### **CONSIDERATION OF THE CONSENT AGENDA**

Commissioner Mitchell moved to approve the Consent Agenda as presented followed by a second from Commissioner Blount. The motion carried unanimously.

The Consent Agenda consisted of the following items:

- A. Approval of the August 15, 2005 minutes
- B. Approval of the August 23, 2005 minutes
- C. Set Public Hearing for September 19, 2005 Regarding Change in Board of Commissioners Meeting Times
- D. Set Public Hearing for September 19, 2005 for Revisions to the Solid Waste Ordinance
- E. Set Public Hearings for September 19, 2005 and October 3, 2005 for Extension of Cable Franchise Agreement with Adelphia Cable
- F. Set Public Hearings for September 19, 2005 for Z 08-05
- G. Set Public Hearings for September 19, 2005 for CUP 27-01 Amendment
- H. Approval of Revisions to 2005 Scattered Site Housing Resolutions

### **ADDITIONS**

- Chairman Chamberlain read correspondence from the North Carolina Quarter Midget Association (NCQMA) in which the association has agreed to pay for additional sound testing at the Salisbury facility. Chairman Chamberlain said he had received the correspondence just prior to the meeting and that he would provide all Commissioners with a copy.
- Coyt Karriker of the Rowan County Rescue Squad provided an update on the Hurricane Katrina assistance efforts. Mr. Karriker provided a power point presentation and discussed the devastated areas. Mr. Karriker briefly shared stories of the families/individuals that had been encountered by the Rowan group.

Mr. Karriker reported there was approximately 21-plus in the group from Rowan County that was working 16-hour days in an effort to provide relief to those in need. Mr. Karriker said a firm in Charlotte had provided a plane, the fuel and a pilot to allow for the exchange of personnel.

Mr. Karriker said Rowan County was well represented and he explained that the Sheriff's Department and Rescue Squad had been mobilized in ten (10) hours. Mr. Karriker said the group was currently assigned to security at a surgical mobile unit and had also gone house to house delivering food in hard to reach places.

In response to a query from Chairman Chamberlain, Mr. Karriker said the group had not encountered any children wandering alone amongst the cities, but he reported that the Salisbury City Council had discussed various means for helping the children.

Mr. Karriker expressed his appreciation for the Sheriff and the Salisbury Fire Department and the “select group” that was handpicked for the deployment.

Commissioner Mitchell asked where the group was stationed and Mr. Karriker estimated the location to be approximately 45 miles from the Louisiana state line.

Commissioner Mitchell questioned the length of time the group would be deployed and Mr. Karriker said fourteen (14) days.

Chairman Chamberlain expressed appreciation to Mr. Karriker for the work being done.

- Commissioner Sides said he had been approached by Michelle Patterson pertaining to several individuals that had contacted the Department of Transportation (DOT) regarding the establishment of a school/speed zone at the new Millbridge School. Commissioner Sides explained that the buses are at a disadvantage in the fact that they are slower entering onto the highway in a 55 mph zone. Commissioner Sides said he had visited the site and that he agreed with Ms. Patterson’s concerns.

Commissioner Sides said he had spoke with County Attorney Jay Dees and Ed Muire of the Rowan County Planning Department on the issue. Commissioner Sides said the DOT had provided a written explanation as to why they felt the area was not classified as a school speed zone. Commissioner Sides the explanation focused on the fact that the buses did not actually enter Millbridge Road from the school but rather from Ed Deal Road.

Commissioner Sides said according to the General Statutes, the DOT or the County Commissioners could establish the area as a school speed zone. Commissioner Sides said he preferred for the DOT to establish the school speed zone but if they refused, he requested consensus from the Board for Mr. Dees to research the issue and possibly work with the Board of Education’s attorney to draft a letter to the DOT.

Commissioner Mitchell asked if the DOT had put in turn lanes and Commissioner Sides said no.

Chairman Chamberlain described the site as a potential disaster waiting to happen.

Commissioner Sides moved for Mr. Dees to contact the Board of Education Attorney to draft a letter indicating the desire of the Commissioners to see the speed zone established at the school. Commissioner Tadlock seconded the motion.

Commissioner Blount suggested that Chairman Chamberlain contact Nancy Dunn in the Winston-Salem regional office for assistance on the project. Chairman Chamberlain responded that he would work with Mr. Dees on the matter.

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

### **HEALTH DEPARTMENT DEBT COLLECTION**

Leonard Wood, Health Department Director, said the department was seeking approval from the Board for a debt setoff policy that would allow letters to be sent to those who owed the Health Department money for services rendered. Mr. Wood said the policy would allow garnishment of taxes to those who had not paid.

Commissioner Mitchell mentioned that the same process was used by the Tax Collector's Office.

Commissioner Mitchell moved for approval of the debt collection policy. Commissioner Tadlock seconded and the motion passed unanimously.

### **HEALTH DEPARTMENT CLIENT FEE SCHEDULE**

Leonard Wood, Health Department Director, referred to the fees in the agenda packets and said as a general rule, the department charges its fees based on 75% of what is considered "mutual and customary" and/or at Medicare rates.

Commissioner Mitchell moved for approval of the fee schedule presented for fiscal year 2005-06. Commissioner Sides seconded and the motion passed unanimously.

### **DISCUSSION REGARDING AN ATTORNEY TO HANDLE BROADCAST TOWER ISSUE**

Chairman Chamberlain called Attorney Anthony Fox forward and at this point County Attorney Jay Dees recused himself and left the room.

Chairman Chamberlain introduced Mr. Fox and explained that the Board would need to hire an attorney to represent the County on the Broadcast Tower issue. Chairman Chamberlain asked Mr. Fox to enlighten the Board of his experience for handling such cases.

Mr. Fox said he had been practicing law for approximately twenty-three (23) years, principally in the area of municipal law. Mr. Fox said he was familiar with the region and also familiar with the meeting room, as he had represented the Town of Cleveland in a hearing held in the room. Mr. Fox said he had experience in handling quasi-judicial

hearings and that he had been before both the Court of Appeals and the North Carolina Supreme Court on numerous occasions.

Commissioner Blount said a suggestion had been made to the Board for it to use a hearing officer in the case due to the complexity of the issue and the large crowd that was anticipated to attend. Commissioner Blount asked Mr. Fox if he had participated in a case where a hearing officer was used? Mr. Fox responded that he had not and said the Board was ultimately the body that would make the decision. Mr. Fox said generally the Board conducts itself as the hearing officer in the findings of facts in a quasi-judicial setting. Mr. Fox said there would be some question regarding a hearing officer actively participating in the process, other than as a facilitator.

Commissioner Blount asked Mr. Fox if he would be able to advise the Chairman as to what is allowed as testimony or what is considered as hearsay? Mr. Fox responded yes and said approximately 50 percent of his practice was litigation and that he did have experience in providing advice to board chairmen. Mr. Fox highlighted his background regarding similar types of cases.

Commissioner Mitchell asked Mr. Fox how much of his work involved towers and telecommunications? Mr. Fox said he dealt with telecommunications matters “when they come up from zoning perspectives.” Mr. Fox said he handles the issues from “time to time” and that in the past he had handled the issue anywhere from the actual hearing to the trial level.

Commissioner Tadlock questioned Mr. Fox regarding his pay scale and he asked if Mr. Fox worked on a contract or a per hour basis? Mr. Fox said the firm requires him to bill his time on an hourly basis. Mr. Fox explained that he had a budgeted hourly rate and that he would drop to the lowest rate his firm would allow for Rowan County.

Commissioner Chamberlain suggested that the Board set a pool of hours, not to be exceeded without additional Board approval.

Commissioner Blount moved to enter into negotiations with Mr. Fox and his firm to hire him to represent Rowan County in the hearing and what was likely to be litigation afterwards regarding the cell tower. Commissioner Sides seconded.

Chairman Chamberlain said he did not look forward to conducting the public hearing and he asked Mr. Fox if he would have any problem providing advice during the process? Mr. Fox emphasized that his role in providing counsel in a quasi-judicial proceeding was to ensure that the Board made a decision that would be defensible in a court of law. Mr. Fox stressed that he would make sure that the Board met the standards of review that would be considered by the courts if the case went that far.

The motion passed unanimously.

After a brief discussion the Board agreed to tentatively schedule the public hearing for Thursday, October 13<sup>th</sup> at 5:30 pm and if need be, the public hearing would be continued on Monday, October 17<sup>th</sup> prior to the regularly scheduled Commission meeting. Ed Muire of the Rowan County Planning Department said he would inform the Board as soon as possible if the date would be acceptable to all parties involved in the case.

Chairman Chamberlain called for a break at 7:45 pm.

Chairman Chamberlain reconvened the meeting at 7:55 pm.

#### **CONTINUATION OF PCUR 01-05**

As reported at the beginning of the meeting, the application for PCUR 01-05 was withdrawn.

#### **CONTINUATION OF CUP-05-05**

Shane Stewart of the Rowan County Planning Department referred to information in the agenda packets and noted that the second item (allow for applicant clarification) listed in the Board of Commissioners Action should be stricken. Mr. Stewart said the information was listed in error.

Mr. Stewart discussed the Staff Report and said there had been some question at the time of the public hearing regarding Alcoa restrictions and also pertaining to work that had been done on the site between the time that pictures were taken and the time of the public hearing. Mr. Stewart described the “bits of information” as clarification (Attachment 1) and suggested that County Attorney Jay Dees advise if the information was considered as new evidence.

Mr. Dees agreed that Staff had been asked to contact Alcoa and that the information being provided was for clarification purposes only.

Mr. Stewart showed a power point presentation that included photos from the last public hearing as well as additional photos that depicted the proposed site and surrounding areas. Mr. Stewart said these photos provided the clarification to two (2) questions that he had been unable to answer for the Board at the public hearing.

Chairman Chamberlain stated that the public hearing had been closed and that the Board was in the deliberation stage in asking questions of Staff.

Chairman Chamberlain asked Mr. Stewart to show the photo of the cut area and asked if the area was off of the private road? Mr. Stewart said yes and he referred to Staff’s recommended conditions. Mr. Stewart said after Staff had discussed the first condition pertaining to the road maintenance agreement, “The logistics of that might not be the best option because there are some folks in opposition.” Mr. Stewart informed the Board that there were two (2) options; (1) have a condition that the applicant maintains part of the road, or (2) that the applicant comes from Bringle Ferry Road. Mr. Stewart said the

applicants have stated in the past that they would not approve any kind of entrance to Bringle Ferry Road. Mr. Stewart said the applicant wanted to use the private road.

Commissioner Sides asked why could the applicant could not make a cut and turn immediately into the campground? Mr. Stewart showed the site plan and responded that the drainfield area was supposedly suitable for the septic tank. Mr. Stewart said the campground could be in the same configuration and come from Bringle Ferry Road. Mr. Stewart said, "This allows for a different set up to the site plan." Mr. Stewart discussed the fact that the access was closer to the Tamarac parking lot and the entrance to the marina. Mr. Stewart said the applicant had firmly stated that the drainfield area contained approximately four (4) acres of good soil and that they "couldn't move around that."

Commissioner Sides asked what would prevent the applicant from coming in approximately 50' to 100' off of Bringle Ferry Road, turning left into their property and enter the park without affecting the drainfield area? Mr. Stewart said, "That is something that was stated in discussions and they did not want to access Bringle Ferry; they wanted to access this property." Mr. Stewart said the dilemma was whether to require the applicant to use Bringle Ferry Road or Tamarac Trails with the condition that they maintain the road and strike the road maintenance agreement.

Commissioner Blount speculated that the applicant planned to use the property for commercial use and "they don't want to give it up for that driveway."

Commissioner Sides asked if the clearing was done prior to any approval? Mr. Stewart said it was questionable as to what time the erosion control plan was approved. Mr. Stewart explained that a verbal approval was given before the individual knew that a conditional use permit was necessary in order to proceed. Mr. Stewart said the real issue is that until the Board approves a plan, there should not be any activity taking place, as the applicant wouldn't know the conditions to be imposed by the Board.

Commissioner Sides discussed the clearing that had taken place along the front of Tamarac Drive. Commissioner Sides said the applicant had completely clear-cut the front section of the area. Commissioner Sides said it would have been his suggestion that the natural growth be left intact. Commissioner Sides asked if the entrance would be considered as the front or the side? Commissioner Sides said there would be buffering issues. Mr. Stewart said a buffer is not required along the front of the property. Mr. Stewart said there are different setbacks for front versus side streets. Mr. Stewart said the ordinance standards for buffering as far as vegetation and screening is side and rear. Mr. Stewart said the Board could require buffering as a condition.

Commissioner Sides expressed concern with not allowing an individual to use his property however he said there are regulations in place that must be followed. Commissioner Sides said it was his opinion that the entrance was probably not the major problem with the residents but rather that the land had been clear-cut along the side and left open for public view. Commissioner Sides stressed that the area should have been

left as natural growth. Commissioner Sides said his vote of approval would require a stipulation for the buffer to be put back in.

Mr. Stewart said the Board should be specific as to the type of screening it would like in place.

Commissioner Sides questioned the parking and asked if the streets inside the park would be paved once the lots were complete? Commissioner Sides said he understood that parking would not be allowed on the streets. Mr. Stewart said this was not addressed in the ordinance or the application since the road was basically considered as a driveway. Mr. Stewart said the Board could impose this as a condition but it would be difficult to enforce. Commissioner Sides asked if the Board could require two (2) parking spaces for each site? Mr. Stewart responded that he could not tell from the site plan if there would be sufficient space between the sites for two (2) vehicles.

Commissioner Blount referred to the email from Alcoa and he said Alcoa's Shoreline Management Plan requires the property owner to leave an undisturbed buffer between the water and the development. Commissioner Blount said if the proposed beach area infringed on Alcoa's property, the rules would "kick in" and that if trees had already been cut in the area, then Alcoa's rules had been violated. Commissioner Blount agreed with Commissioner Sides that the applicant should have waited for approval before cutting down the trees.

Mr. Stewart discussed his correspondence with Bob Smet and said he understood that "if you're above the 655' high water mark" and "you don't subdivide property" the Shoreline Management Plan does not kick in. Mr. Stewart said, "If you're below the 655' and disturb or want a beach access," then "you have to get approval from Alcoa." Mr. Stewart said the email indicated that most beach access applications have been turned down. Mr. Stewart said the property owner in question had not received Alcoa's approval and would have to fill out an application.

Chairman Chamberlain said he liked to see citizens use their property in the manner they wished but he stressed that there are ordinances in place that must be followed. Chairman Chamberlain said a lot of trees had been cut, which wouldn't have happened had the applicant communicated with the proper departments.

Commissioner Blount referred to the power point presentation and asked if one of the photographs was the entrance from Tamarac Drive. Mr. Stewart responded yes and said the area was the proposed entrance based on the site plan.

Chairman Chamberlain inquired if there were pictures of the areas that had been cut? Mr. Stewart showed several pictures showing the proposed beach access and said the area looked like it had been bush hogged. Mr. Stewart said it appears mostly undergrowth had been cleared and that for the most part, "they were trying to follow the internal road."

Commissioner Sides moved that he was in favor of granting the conditional use permit with the applicable Staff suggestions and also with a requirement that the applicant complete the buffer in order to completely obscure any view from the road of the campground, other than the actual entrance itself.

Commissioner Blount suggested that the Board consider requiring the applicant to come in off of Bringle Ferry Road and Commissioner Sides said he felt the suggested option would have been the best alternative other than the fact that the applicant would have to come across the drainfield or possible commercial area. Commissioner Sides emphasized that he wished the applicant had not put the drive in and cut the trees.

Chairman Chamberlain discussed the suggested conditions by Staff and said he would like to see the entrance relocated to Bringle Ferry Road in a place suitable with the Department of Transportation (DOT). Chairman Chamberlain said the road maintenance agreement could be stricken if the entrance was relocated. Chairman Chamberlain said the Board would review the remaining Staff suggestions later during the Board's discussion. Chairman Chamberlain continued by saying the vegetation that was prematurely cut should be in place before occupancy of the campground. Chairman Chamberlain said all improvements except the pool and road paving are to be in place prior to occupancy of any campground site.

Commissioner Sides' motion died for lack of a second.

Chairman Chamberlain referred to Staff's suggested conditions and said he would like for #2 to read: Provide revised site plan and a revised erosion control plan subject to acceptance and approval by Staff.

Commissioner Blount said he had no problem with Chairman Chamberlain's suggestions and he referred to item #3 and said everyone had concerns about whether the land would perk. Commissioner Blount said the perk tests should be checked before any work starts.

Commissioner Sides said there were two options with on site waste treatment or transporting the waste off site.

Mr. Stewart said there is a dump station in the application and he referred to the power point presentation as he explained the process for waste disposal.

Commissioner Blount said Staff could make the language in the conditions enforceable. Commissioner Blount said if the waste would be transported off site it would not matter if the land would perk.

Commissioner Blount asked if the site plan would meet the setback requirements if the Board were to require the entrance to be located on Bringle Ferry Road? Mr. Stewart said the site plan would have to be modified.

Mr. Stewart said the Board could go "above" the ordinance requirements regarding buffering since the request was for a conditional use permit. Commissioner Blount said

the only way he could support the request was to add conditions to protect the existing dwellings and to completely obscure the area.

Mr. Stewart requested clarification for Staff's perspective and he asked since the septic tank was an improvement, it would be good for the Board to determine what timing would be acceptable for the tank going in and for occupancy of the sites. Mr. Stewart said there was the possibility for tents and campers that would not use the system. Mr. Stewart asked if the improvement must be in place before any type of occupancy and Chairman Chamberlain responded yes.

Chairman Chamberlain read the conditions required by the Board for approval of the conditional use permit:

1. Relocate entrance to Bringle Ferry Road to a site suitable with DOT.
2. Provide revised site plan and revised erosion control plan subject to acceptance and approval by Staff.
3. Rowan County Environmental Health shall determine the acceptable number of spaces, not to exceed 38. Commissioner Blount interjected and asked if this item was listed due to the need to do perk test on the property and also would the number of sites be regulated by the building to use the septic system. Mr. Stewart explained that if the area only perked for 28 sites then the applicant would not be allowed to have 38. Mr. Stewart 38 would be the limit regardless of soil tests.
4. Streets must be paved within 6 months of campground completion.
5. Paint pedestrian crosswalk section and beach access area similar to NCDOT standards for public roads, completed within 6 months of campground completion. Commissioner Blount mentioned that if the entrance were located on Bringle Ferry Road, there would no be a way to have a crosswalk. Commissioner Blount said he didn't think Alcoa would allow the beach area. ***Chairman Chamberlain concurred and deleted this item.***
6. Allow a floating playground area and guardshack no closer than the existing development limits. Commissioner Blount suggested implementing language "based on the approval of Alcoa." Mr. Stewart explained that floating was what he "meant by there's no playground or guardshack on the site plan but if the Board approves it, they have expressed interest in both in terms of the application but not on the site plan." Mr. Stewart said, "floating, so to speak, that it could go anywhere within the site plan outside those boundaries."
7. Comply with 36 percent impervious coverage limitation for the WSIV PA watershed district.
8. All improvements except pool and paving be in place prior to occupancy of any campground site.
9. Replace vegetation where removed as a result of premature grading; do this prior to occupancy of any campground site. Chairman Chamberlain said the Board would need to address the type of buffering to be required.

Commissioner Blount referred to tract #5 and asked if it was part of the conditional use permit area? Mr. Stewart responded that it was all one parcel.

Commissioner Blount expressed concern that the trees could also be cut in this area and he said he would like to require that all trees and vegetation be left in that area.

Commissioner Blount provided the following language as a condition for approval of the conditional use permit: **That no existing vegetation be cut or removed from on what is designated as tract 5 on the site plan without Board approval.**

Mr. Dees said that replacement of the buffer on the side should be designated in the site plan with the points per linear foot or however Staff preferred the wording in order to provide the desired coverage.

Mr. Stewart said the most restrictive buffering was Type B, 80' with a fence, canopy trees and shrubs. Mr. Stewart said part of the existing trees could be in the right of way and he used the power point presentation to discuss buffering possibilities.

Mr. Muire explained that the difference in Type A and Type B screening was the height of the plantings. Mr. Muire said in Type A screening the plantings reach 6' in two (2) years and with Type B the plantings reach 10'. Mr. Muire said, "I don't think you want to add anything to that because it pushes the site plan even further away from the road." Mr. Muire asked Mr. Stewart to show the septic basin and he said another thought for the Board to keep in mind was that for the development plan to work properly the area must remain open. Mr. Muire said putting trees in that area wouldn't work for the applicant and "throws a wrench in their whole plan." Mr. Muire said spaces 32 and 35 could remain until all other spaces are complete and the drain could be removed.

Mr. Stewart reminded the Board "this is a temporary silt basin."

Mr. Dees referred to item #5, the floating playground, and asked Mr. Stewart if Staff intended the development limits to mean up to the property edge? Mr. Stewart said the wording could be modified to "limit of disturbed area based on clearing." Mr. Dees said he wanted to make sure "they couldn't put it in any kind of setback." Mr. Stewart said it could be modified to add setbacks, or whichever is greater.

Commissioner Blount asked if the Board must make a decision "tonight" or if Staff could come back with a rewritten request?

Chairman Chamberlain agreed with Commissioner Blount that Staff should put the conditions in language for all to understand.

Commissioner Tadlock asked if the applicant would be able to make the cut from Bringle Ferry Road? Mr. Stewart said he did not know if the applicant had tried.

Commissioner Mitchell referred to the zoning and asked if the property owner could presently cut down every tree on the property? Mr. Stewart said yes, with the proper plan.

Mr. Muire said logging is an allowed use but in regards to an erosion control plan and with knowledge of the campground, the answer in this case would be no.

Commissioner Mitchell noted “separate from the campground, no one can stop him from cutting down every tree” and Mr. Muire said, “you’re exactly right.”

Commissioner Mitchell referred to Tamarac Marina and asked how the development would be affected? Commissioner Mitchell provided an example of adding a patio and asked if adding a patio to the existing facility would require Board approval? Mr. Stewart responded that he would consider the Tamarac area, which is zoned CBI, a separate entity and therefore a separate issue, even though it was located on the same parcel.

Mr. Muire said he didn’t want the Board to get the impression that the proposed plan had no merit. Mr. Muire said the plans were not uncommon for the lake area and he reminded the Board that there is an existing campground “right across the lake.” Mr. Muire said it would have been easier if the applicant had not already started working on the project. Mr. Muire pointed out that the Board had heard from a lot of people that did not want to “fight with those people to get to their houses everyday.” Mr. Muire said the Board was faced with “a tough balancing act.” Mr. Muire said Staff could try to fine-tune the conditions that would hopefully provide the Board with findings of fact that would work for all parties involved.

Chairman Chamberlain said he didn’t want to stop the applicants from having their campground but at the same time there are procedures to be followed.

Commissioner Blount asked if there was a 45-day requirement for the Board’s decision and Mr. Muire said he didn’t think so. Mr. Muire said the Board could continue the request.

Mr. Dees said the Board was okay as long as it took some form of action and he pointed out that the Board was actually sending the case back to Staff.

Commissioner Blount moved to continue the case to the next meeting to allow Staff to return with improved language on conditions and allow the applicant to check with DOT. Commissioner Tadlock seconded and the motion passed unanimously.

### **TAX SETTLEMENT FOR FISCAL YEAR 2005**

Tax Collector Glenn Moore reported that the General Statutes require the Tax Collector to report to the Board on the annual tax settlement statement after July 1 of each year. Mr. Moore explained that there are two (2) parts to the settlement. Mr. Moore reviewed the first part of the tax settlement itself, which was broken down into real property, vehicles and utilities. Mr. Moore said 90% of the vehicle taxes had been collected.

Mr. Moore said after ten (10) years the Tax Collector could not proceed with collections and therefore the taxes are considered insolvents.

Mr. Moore requested Board approval for a total write-off in the amount of \$112,365.79.

Commissioner Sides moved for approval of the non-collectibles followed by a second from Commissioner Mitchell. The motion passed unanimously.

### **STANDARD AERO HANGAR CONTRACT**

Commissioner Blount asked if County Attorney Jay Dees preferred to provide legal advice regarding the hangar contract in Open or Closed Session?

Mr. Dees said he would be glad to discuss the general nature “of what’s going on.” Mr. Dees said “at this stage there isn’t anything pending.” Mr. Dees said he hated to disclose any “strategies” but it would be up to the pleasure of the Board.

Chairman Chamberlain asked Mr. Dees to proceed in Open Session and encouraged the Board to “be careful” in its discussion.

Mr. Dees distributed a handout and discussed the general specifications of the hangar and office space. Mr. Dees said from an evaluation standpoint he did not see anything out of kilter with lease rate itself. Mr. Dees said the General Statutes put a limit of ten (10) years on a lease term, which caused him to question the “two (2) outstanding years above that.” Mr. Dees explained that the lease was a five (5) year obligation to Standard Aero and seven (7) years to the County. Mr. Dees referred to a possible breach of contract and said he was unsure if money had been paid on a regular basis and that also a curative period would come into play once notice was given that the ground lease had not been paid.

Mr. Dees said he had heard from Tom Wilson and that the company was willing to work with county to resolve the issue. Mr. Dees said he requested that G.L. Wilson make a first offer of a sale price. Mr. Dees said before the Board made a decision, he would like to provide the Commissioners with all options including terminating the lease, litigation, and purchasing the building for resale. Mr. Dees suggested that if he did not receive a price from G.L. Wilson that the Board allow him to have an appraiser to come in as a starting point on the value.

Mr. Dees mentioned that the County had received an offer to purchase the hangar in the spring of \$400,000 and a response was received by G.L. Wilson that they would settle for a net of \$785,000. Mr. Dees reported that the County at some point had undertaken a process to make an offer to purchase the building at a negotiated price. Mr. Dees said, “There’s our problem.”

Commissioner Sides asked why G.L. Wilson would consider selling the hangar when the County was locked in at approximately \$8100 for seven (7) years? Mr. Dees agreed that there is not much motivation for the seller in this case, which made it harder to negotiate. Mr. Dees said G.L. Wilson did indicate they were willing to work with the County and he said he felt it was worth pursuing. Mr. Dees continued by saying he had contacted the

interested third party and there is still an interest in the hangar. Mr. Dees recommended that the Board allow him to speak with the current owner of the hangar and to also be allowed to contact Appraiser Scott Robinson for the fair market value of the hangar. Mr. Dees also requested to be allowed to continue to speak with the potential third party. Mr. Dees said he would come back before the Board with a full report on the options available.

Commissioner Blount moved to allow Mr. Dees to proceed as requested. The motion was seconded by Commissioner Tadlock and carried unanimously.

### **ADDITIONS**

Commissioner Sides reported that there is a situation involving an individual who is employed fulltime by Rowan County and who works from his home. Commissioner Sides said the individual has a garage and that the County pays him \$750 monthly rent for the garage. Commissioner Sides said he understood that the individual also works on other vehicles that are not county-owned. Commissioner Sides said the current costs including benefits and garage rent exceeds \$60,000 per year. Commissioner Sides said he would like to receive additional information from Staff as to what services the individual provides to the County.

Chairman Chamberlain stressed that this was one reason the County needed a maintenance facility housed under one roof.

Commissioner Sides said he would provide copies of the information for the Board.

Commissioner Sides moved for the Board to determine exactly what services are being provided for the money and if the services could not be provided by other agencies at a lesser cost. Commissioner Sides added that he had a memo regarding a situation where a deputy's car was not satisfactorily repaired. Commissioner Blount seconded the motion and he cautioned that the Board not distribute information that might be considered as a personnel issue.

The motion passed unanimously.

### **DISCUSSION OF SEVERANCE PACKAGE FOR FORMER COUNTY MANAGER**

Chairman Chamberlain stressed that he would like to discuss as much information as possible in Open Session; he reminded the Board that a Closed Session was scheduled for a personnel matter. Chairman Chamberlain suggested that the Board also take the issue of the severance package into Closed Session with the understanding that when the Board returned to Open Session, Board members could "say what you want to say."

### **BUDGET AMENDMENTS**

Commissioner Blount moved to approve the Budget Amendments as presented. The motion was seconded by Commissioner Mitchell.

In response to a query from Commissioner Sides, Finance Director Leslie Heidrick confirmed that there would not be additional county funds used for Dunn's Mountain Park.

Chairman Chamberlain reported that he had met with Parks and Recreation Director Jim Foltz and Parks Board member Paul Brown and they had informed him that there would be funds left over for continued maintenance at the park.

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

## **BOARD APPOINTMENTS**

### **Juvenile Crime Prevention Council**

Chairman Chamberlain moved to appoint Angie Banther to serve in the Substance Abuse slot and to appoint Jon Barber to the at-large slot, both for two-year terms ending on June 30, 2007. Commissioner Sides seconded and the motion carried.

### **Piedmont Behavioral Healthcare Board**

Chairman Chamberlain moved to appoint William Beilfuss and the motion carried unanimously.

### **Region f Aging Advisory Committee**

Commissioner Sides moved to reappoint Leah McFee and the motion passed unanimously.

### **Board of Public Health**

Commissioner Sides moved to appoint Elia Gegorek for the remainder of Mary Ponds' term, which ends December 31, 2006. The motion carried unanimously.

### **Rowan County Housing Authority**

Commissioner Sides moved to reappoint Eric Beaver for a five-year term ending August 31, 2010 and the motion passed unanimously.

## **PUBLIC COMMENT PERIOD**

Chairman Chamberlain opened the Public Comment Period and invited those who wished to address the Board to come forward. The following citizens addressed the Board:

1. James Rollans, a Mount Ulla resident, provided the Assistant Clerk with a letter for the record, which expressed appreciation to the Board for working towards Staff's recommendations for a separate meeting regarding the Broadcast Tower issue. Mr. Rollans said the meeting would assist the Board in providing fairness to all those involved as well as provide the Board with information in making a just decision. Mr. Rollans highlighted the following requests in the handout:
  - A separate meeting for the public hearing
  - County Attorney Jay Dees excuse himself

- Minimum of 30 days before holding the public hearing to allow adequate time for travel, etc.
  - Provide reference to or written copies of regulations governing the quasi-judicial hearings
  - Requests that motions be put in writing where visible to audience and prior to the vote, the motion is read again.
2. Mike Harris (last name was inaudible) said the Board was getting ready to discuss the former County Manager's severance package in Closed Session. Mr. Harris said the severance package was "a very sore subject to a lot of folks." Mr. Harris referred to comp time and he read from the policies and procedures for Rowan County. Mr. Harris said the policies were straightforward and he described recent figures for the severance package as "hideous." Mr. Harris called on the Board to use common sense when in Closed Session.
  3. Dan Leath said he had been reading the newspaper and the issue of the severance package had his "blood boiling." Mr. Leath said the former County Manager, Tim Russell had stole \$23,000 from the taxpayers and he explained that if he took \$23,000 from a bank, he would be a guest of the law. Mr. Leath said three (3) of the Board members wanted to give Mr. Russell \$475,000 and he discussed how those funds could be used for the schools. Mr. Leath felt the Commissioners who support the severance package should pay Mr. Russell "from your own personal pockets." Mr. Leath expressed his displeasure that the newspaper had reported the severance package would be discussed in Open Session and that the Board had since made the decision to discuss the matter in Closed Session. Mr. Leath reminded the Commissioners that they work for the citizens and that the citizens are their employers. Mr. Leath accused Board members of being kin to Tim Russell.

Chairman Chamberlain reassured the audience that the Closed Session was to avoid "legal problems" and he emphasized that any votes by the Board during Closed Session would be made public upon return to Open Session.

Chairman Chamberlain closed the Open Session at 9:15 pm and called for a short break before beginning Closed Session.

### **CLOSED SESSION**

The Board went into Closed Session at 9:20 pm for a personnel matter.

### **RETURN TO OPEN SESSION/ADJOURNMENT**

The Board returned to Open Session at 11:00 pm.

Chairman Chamberlain opened the floor to entertain a motion regarding the Kiker Investigation materials.

Commissioner Mitchell moved to make the materials of the Kiker Investigation available to the public and he included in the motion that three (3) copies be made originally for

the Commissioners office; the Salisbury Post and the public in general. Commissioner Mitchell also moved that any member of the public or other Commissioners that might want a copy, be charged the amount that it costs the County to reproduce the materials. Commissioner Blount seconded the motion.

Chairman Chamberlain explained that the materials contained a lot of information and that if the Commissioners wanted a personal copy, they must also pay for the materials. Chairman Chamberlain said if any citizens wanted to order the materials, they would be required to pay the costs to reproduce the information.

The motion passed unanimously.

County Attorney Jay Dees reported that the information should be available by "tomorrow afternoon." Mr. Dees said an order form would be available in the County Manager's Office for those who would like to purchase the materials. Mr. Dees said the County had chosen to handle the issue in this manner, as there was no way to reasonably estimate the demand or viewing time for Staff to monitor.

Chairman Chamberlain explained that he had been authorized by the Board to continue negotiations for an Interim County Manager.

Chairman Chamberlain opened the floor to entertain a motion regarding the severance package for the former County Manager.

Commissioner Mitchell moved to reject the proposal/offer submitted by Mr. Russell and request that Mr. Dees meet with Mr. Russell and his attorney to continue negotiations. Chairman Chamberlain seconded the motion.

Commissioner Blount said he would vote in favor of the motion but that he wished to clarify that he was doing so in order to allow Mr. Dees to negotiate the best deal for the County. Commissioner Blount said he did not feel that the offer Mr. Russell's attorney had made was unreasonable.

Chairman Chamberlain responded that he felt the offer was unreasonable and that was why he would vote in favor of the motion.

The motion passed 4-1 with Commissioner Sides dissenting.

With no further business, Commissioner Mitchell moved to adjourn the meeting at 11:10 pm.

Respectfully Submitted,

Carolyn Athey  
Assistant Clerk to the Board