

**MINUTES OF THE MEETING OF THE
ROWAN COUNTY BOARD OF COMMISSIONERS
OCTOBER 17, 2005 – 7:00 PM
J. NEWTON COHEN, SR. ROOM, ADMINISTRATION BUILDING**

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

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

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

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

ADDITIONS/ APPROVAL OF THE AGENDA

- Commissioner Blount added discussions regarding correspondence from Nancy James and also regarding teachers supply money.

Chairman Chamberlain added the correspondence issue as agenda item #5a and the teachers supply money discussion as agenda item #10b.

- Commissioner Mitchell added a discussion pertaining to a dangerous railroad crossing.

Chairman Chamberlain added the railroad crossing issue as agenda item #9a.

- Commissioner Mitchell added an Executive Session for the purpose of discussing a Deputy Clerk.

Chairman Chamberlain added an Executive Session as agenda item #12a.

- Commissioner Mitchell added a discussion regarding the contract for former County Manager Tim Russell.

Chairman Chamberlain added the contract issue as agenda item #10a

Commissioner Mitchell moved, Commissioner Blount seconded and the vote to approve the agenda with the additions passed unanimously.

CONSIDERATION OF CONSENT AGENDA

Commissioner Mitchell moved, Commissioner Blount seconded and the vote to approve the Consent Agenda passed unanimously.

The Consent Agenda consisted of the following items:

- A. Approval of October 3, 2005 minutes
- B. Resolution for Designation of Applicant's Agent for NC Division of Emergency Management
- C. Resolution for Revocation of Review Officers for Planning
- D. Resolution for Re-appointment of Review Officers for Planning
- E. Schedule Public Hearing for Unanimous Petitions for Chase Lake Lane and Popeye Loop

YEAR END REPORT FROM CENTRALINA AREA AGENCY ON AGING

Ron Michael, liaison for the Centralina Area Agency on Aging commended the Board for its support of seniors and of the Region F Aging Advisory Committee.

Mr. Michael introduced the delegates, some of which were in attendance, that were appointed to serve on the Region F Aging Advisory Committee. The appointees were Robbie Davis, Leah McFee, Rosalie Roberts and alternate Manie Richardson. Mr. Michael informed the Board that the Senior Tarheel Legislature (STHL) delegate and alternate were Katherine Bias and Sandy Reitz. Mr. Michael said both of the STHL representatives from Rowan County had served with 98 other Senior Tarheels to advocate for senior services in North Carolina at the state level and before the General Assembly. Mr. Michael said Rowan County is one of the few counties that have all of its appointments filled.

Mr. Michael praised the Rowan County Senior Services Department for the many services it offers to seniors. Mr. Michael then acknowledged Clyde Fahnstock, Director of Senior Services, who was also in attendance.

Mr. Michael referred to page 29 of the power point presentation in the agenda packets and highlighted the top 10 items county boards and city councils could do for seniors.

Mr. Michael again commended the Board and thanked the Commissioners for providing an example to other counties as being a senior-friendly county.

Chairman Chamberlain thanked Mr. Michael, Mr. Fahnestock and the delegates for the presentation and their attendance.

PUBLIC HEARING FOR INCENTIVE GRANT TO SCHNEIDER ELECTRIC

Randy Harrell, Executive Director of the Economic Development Commission (EDC), Alan Lewis of the Keith Corporation, Bruce Jones of the EDC Board and Mark Seifel, General Manager of Schneider Electric, were present for the public hearing.

Mr. Harrell said he was before the Board in support of the incentive grant to assist Schneider Electric (Square D). Mr. Harrell felt it was important to mention that the company was a good corporate citizen and that the County should do everything possible to help with the company's growth mode. Mr. Harrell said he was speaking on behalf of the EDC Board and he asked the Commissioners to consider approval of the incentive grant.

Mr. Harrell explained that the company was looking at an investment of approximately \$5 million. Mr. Harrell said Rowan County was being asked to provide an incentive grant and he said, "This is a performance-based contract." Mr. Harrell said, "In essence, it means they have to pay taxes before they can get any rebate back on their taxes," and it would be at 75% over a 5-year term.

Commissioner Sides asked who would pay the taxes if the company were to only stay 3 years? Mr. Lewis responded that the Keith Corporation would pay the taxes. Commissioner Sides said, "That is correct, so the incentive is not going to Schneider; the incentive is actually going to the Keith Corporation." Commissioner Sides said the owner of the building is actually responsible for the taxes. Mr. Lewis agreed and said the Keith Corporation would invest approximately \$4.6 in land and in the building. Mr. Lewis said the land is currently not on the tax list, as it is owned by Rowan County. Mr. Lewis said his company had a 12-year lease with Square D and that Square D was responsible for paying the taxes under lease. Mr. Lewis said the property would "be in our name or an entity that we set up." Mr. Lewis said, "We are comfortable with knowing that they're a solid company and we are very comfortable with the grant being specific to them being an occupant in the building."

Commissioner Sides recalled a meeting from earlier in the year where he had asked Mr. Lewis if he would construct a building in Summit Corporate Center (SCC) if he did not receive an incentive. Commissioner Sides said Mr. Lewis had responded no. Commissioner Sides was of the opinion that the incentive was not actually being granted to Schneider but to the Keith Corporation.

Mr. Lewis explained that Commissioner Sides had asked if he would build a “spec building” in SCC, to which he had responded no. Mr. Lewis continued by saying the company for which he constructs the building receives the tax incentive. Mr. Lewis stressed that the Keith Corporation would be responsible for paying the taxes if Square D left. Mr. Lewis said, “We will not expect you to give us that grant.”

Commissioner Sides asked if jobs would be lost in another location in order for Square D to expand locally? Mr. Seifel came forward and explained that the jobs proposed were the result of a new product and therefore a new marketing initiative for the company. Mr. Seifel said there would not be any movement of jobs from other facilities and he confirmed to Commissioner Sides that all of the jobs would be local jobs.

Commissioner Tadlock referred to the possibility of Square D leaving the proposed site after 3 to 4 years and he asked Mr. Lewis if there was documentation stating that the Keith Corporation would be responsible for paying the taxes? Mr. Lewis said the document that Keith Corporation would sign to evidence the grant could specifically state this and it would be contingent upon Schneider Electric being the occupant of the building. Mr. Lewis continued by saying Schneider Electric planned to install approximately \$100,000 in new equipment/machinery and he explained that the majority of the investment would be in the real estate. Mr. Lewis pointed out that the Keith Corporation was not requesting any money spent for infrastructure and that the Keith Corporation was paying the full price of \$28,500 per acre for the land.

Chairman Chamberlain questioned how many acres were involved and Mr. Lewis responded 8.4 acres. Chairman Chamberlain asked when the Keith Corporation would pay the County for the property? Mr. Lewis said, “As soon as this grant is approved and finalizing the lease document, which should happen in the next week,” 2 weeks at the most. Mr. Lewis said the Keith Corporation would exercise its option and probably close on the land in less than 30 days.

Chairman Chamberlain opened the public hearing to entertain citizen input regarding the incentive grant to Schneider Electric. With no one wishing to address the Board, Chairman Chamberlain closed the public hearing.

Commissioner Blount moved to enter into an incentive agreement with Schneider Electric based on the criteria stated tonight.

Commissioner Mitchell requested clarification and asked if the figure being discussed was 75% over five years? Commissioner Blount responded yes.

Commissioner Mitchell seconded the motion.

Commissioner Sides explained that he was not opposed to growth, to Schneider Electric or Square D. Commissioner Sides said he is glad the company is in Rowan County and glad for the company's opportunity to grow. Commissioner Sides stressed that he is opposed to adding to bottom line of a profit making company.

Upon being put to a vote, the motion passed 4-1 with Commissioner Sides opposed.

PUBLIC HEARING FOR PCUR-02-05

Chairman Chamberlain read the Chairman's Speech (Exhibit A) and declared the public hearing for PCUR-02-05 to be in session. Chairman Chamberlain said the hearing would focus on an application submitted by Scott Chinn for the rezoning of Tax Parcel 768-020 from Rural Agricultural (RA) to a Commercial, Business, Industrial (CBI) parallel condition use district that may allow a variety of uses within several SIC categories.

The Clerk swore in those wishing to provide testimony.

Ed Muire Planning Manager for the Rowan County Planning Department, located at 402 North Main Street in Salisbury, read the Staff Report (Exhibit B). Mr. Muire reported that he would keep his comments brief.

Mr. Muire said the Chairman's Speech (Exhibit A) indicated that the property is located at 6515 Mooresville Road and is owned by Scott Chinn. Mr. Muire said the property is currently zoned RA and is designated as Tax Parcel 768-020. Mr. Muire said there is currently a 9,000 square foot building on the property and the occupancy is split between equipment materials storage for a construction company and automotive-related items belonging to Mr. Chinn.

Mr. Muire said based on Staff's knowledge as well as discussions with Mr. Chinn, there had been several different businesses that had occupied and operated on the site as a non-conforming use since he had acquired the property in 1996.

Mr. Muire said tax records indicate a 4,000 square foot building was erected on the property in 1987 and Mr. Chinn acquired the property in 1996 and expanded an additional 5,000 square feet in October 2001. Mr. Muire said in 1999 Mr. Chinn approached the ZBA for a setback variance, which allowed the side yard to decrease from 60' to 40'.

Mr. Muire used a power point presentation (Exhibit C) to show the site, the surrounding area and the site plan, which had been prepared by the applicant. Mr. Muire said the request would make the existing business a conforming use and would allow for an expansion of a 10,000 square foot building.

Mr. Muire said the applicant was considering several major use categories including residential, agricultural, construction, manufacturing, transportation, wholesale trade, retail trade, finance, services and public administration.

Mr. Muire highlighted the Zoning Review in the Staff Report (Exhibit B) as follows:

1. Relationship and conformity with any plans and policies. Mr. Muire said the only plan that has any relationship to development of property in the area is the water supply watershed overlay. Mr. Muire said commercial projects are typically limited to a 12% built upon area. Mr. Muire said the applicant is proposing that if the rezoning and conditional use permit are allowed, that the SNIA permit would be approved administratively.
2. Consistency with the requested zoning district's purpose and intent. Mr. Muire said the CBI district is designed to accommodate different uses that are coupled with parallel conditional use districts. Mr. Muire said the key point here and the purpose of the zoning ordinance is that they may also be created in an area that is compatible with the surrounding area. Mr. Muire said although not located in a densely populated area, the site is along Mooresville Road, which is designated as a major collector.
3. Compatibility of all uses within the proposed district classification with other properties and conditions in the vicinity. Mr. Muire referred to Attachment B in the Staff Report (Exhibit B) and pointed out the comparison between the neighborhood business (NB) districts as well as the CBI district. Mr. Muire said the last column in the attachment was Staff's proposal for the request. Mr. Muire said there are 119 uses that are permitted in the CBI district and out of those, the applicant identified 73 that he would like to have as potential uses for the building. Mr. Muire said 46 of the uses are permitted in the NB district and 27 are exclusive to the CBI district. Mr. Muire said Staff looked at the size of the tract, development potential and those that tended to be major attractors for traffic. Mr. Muire said parking was an issue as there is approximately 270' of road frontage and that access to the new building was not as great as it would be in some cases.

Mr. Muire reviewed the following proposed uses that would be eliminated from the request: manufactured home, duplex, food and kindred products, textile mill products, steam and air condition supply, depository institutions, non-depository institutions, security and commodity brokers, insurance carriers, insurance agents, real estate, holding and investment offices, motion pictures, amusement and recreational services, health services, museums, churches, and no public administration services. Mr. Muire pointed out that Staff had pared down the potential uses to 45.

Mr. Muire said the area surrounding the site is predominantly rural and he used the power point presentation (Exhibit C) to show surrounding

properties including residential dwellings, Millbridge Speedway, Sudden Impact Body Shop and 4 commercial greenhouses.

4. Potential impact on facilities such as roads, utilities and schools. Mr. Muire said Mooresville Road is recognized as a major collector in the Rowan County Thoroughfare Plan and has a design capacity of 7,000 vehicles per day. Mr. Muire said online ADT maps reveal that in 2003, 3600 vehicles per day was the average daily traffic in proximity of the area. Mr. Muire said based on information obtained from the traffic engineers' manual, a reasonable assumption for traffic for both facilities to be occupied would be 94 trips per day. Mr. Muire said utilities and schools were not applicable criteria.

Mr. Muire reported that Mr. Chinn had provided a response to the general conditional use criteria, included as Attachment A of the Staff Report (Exhibit B).

Mr. Muire said Planning Staff generally supports the request but felt the proposed uses were too broad, relative to the tract size. Mr. Muire said Staff proposed eliminating several of the uses and employing several conditions to encourage compatibility with the surrounding properties. Mr. Muire pointed out that Staff's suggestions were listed as items 1 through 5 under Staff Recommendations in the Staff Report (Exhibit B).

Commissioner Mitchell asked if Staff had received any calls from the public regarding the application. Mr. Muire responded that he had received one call from Ms. Shoaf who had expressed concern with the hours of operation. Mr. Muire used the power point presentation (Exhibit C) to depict where Ms. Shoaf lived in relation to the site. Mr. Muire also said one of the Staff conditions was for the existing tree line to remain and anything that was removed must be reinstated to fill the visual gaps. Mr. Muire said according to Mr. Chinn, the property line being discussed and the property line on the west is not proposed to be disturbed at all.

Chairman Chamberlain asked Mr. Muire to review the question raised at the Planning Board meeting concerning churches. Mr. Muire explained that Staff was not against churches but in looking at the site plan, there was only 262' feet of road frontage and parking would be very limited. Mr. Muire said the site rises considerably towards the ridge and that parking could not accommodate the number of people for a church.

Chairman Chamberlain called the applicant forward.

Scott Chinn, property owner at 6515 Mooresville Road, came forward to answer any questions the Board might have.

Commissioner Mitchell questioned Mr. Chinn concerning the restrictions that were recommended by Staff, as well as the changes to the recommended uses. Mr. Chinn said he would not disturb any tree lines when putting up the building, as it would be placed in the middle of the property. Mr. Chinn said the trees around the site are tall and that any lighting would be placed around the building itself. Mr. Chinn said the lights would probably not be more than 16' in the air. Mr. Chinn said the building would be completely behind the existing building and not visible from the road. Mr. Chinn said the current facility is being used as a warehouse facility and is usually a 9 am to 5 pm business. Mr. Chinn said the air compressors would be enclosed. Mr. Chinn said storage would be behind the building and some of the current storage items would be moved behind the building. Mr. Chinn said when he bought the site, it was originally a run-down cabinet shop and that since that time, he had made many improvements. Mr. Chinn said he had no problem with Staff recommendations 1 through 5 or with changes to the proposed uses. Mr. Chinn said Mr. Muire had done a "great job" in "eliminating the things we probably couldn't do in there anyway."

Chairman Chamberlain said he lived in the area and could attest to the improvements Mr. Chinn had discussed.

Mr. Chinn thanked the Board and he also thanked Mr. Muire and the Planning Board for doing a great job.

Chairman Chamberlain opened the public hearing to entertain citizen input and with no one wishing to address the Board, Chairman Chamberlain closed the public hearing.

Commissioner Sides moved, Commissioner Mitchell seconded and the vote to approve the rezoning request with the modifications recommended by the Planning Staff passed unanimously.

Commissioner Sides moved, Commissioner Tadlock seconded and the motion to approve the parallel conditional use district passed unanimously.

Chairman Chamberlain provided the Clerk with a copy of the Findings of Fact (Exhibit D) for the record.

PUBLIC HEARING FOR PCUR-03-05

Chairman Chamberlain read the Chairman's Speech (Exhibit A) and declared the public hearing for PCUR 03-05 to be in session. Chairman Chamberlain said the hearing would focus on an application submitted by Justin Beck for his property located at 4695 Long Ferry Road in Salisbury. The application was for a parallel conditional use rezoning of Tax Parcel 606-028 from Rural Agricultural (RA) to Commercial, Business, Industrial (CBI) with an accompanying conditional use district to (CBI-CUD) to allow a number of uses.

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

Shane Stewart of the Rowan County Planning Department located at 402 North Main Street, Salisbury, presented the Staff Report (Exhibit B). Mr. Stewart reported that Justin Beck had purchased the property located at 4695 Long Ferry Road back in May. Mr. Stewart added that Mr. Beck had been pleasant to work with in light of the fact that the grandfathered use for the property would not allow the proposed expansion.

Mr. Stewart used a power point presentation (Exhibit C) to show the property, the surrounding area and a 2002 aerial view of the property. Mr. Stewart said before the trucking terminal came into place there was High Rock Marine, which was established around 1988. Mr. Stewart said in 1997 or 1998 the use changed over to the trucking terminal.

Mr. Stewart said all other uses that might be considered for the property would need the rezoning change.

Mr. Stewart referred to page 1 of the Staff Report (Exhibit B) and said the parcel is proposed to be rezoned from RA to CBI and establish a CUD to allow uses in construction, transportation, wholesale trade, retail and service sectors.

Mr. Stewart referred to the site plan in the Staff Report (Exhibit B) and said Mr. Beck showed the existing 1700 square foot facility and the setbacks. Mr. Stewart said the proposal is for approximately 3700 square feet of mini-type warehouse storage with larger rollup bays for storage of boats, etc. Mr. Stewart said the facility would have a metal roof but a decorative structure.

Mr. Stewart again used the power point presentation (Exhibit C) to show the aerial view of the facility and the separation distance from other current structures. Mr. Stewart reported that the nearest residence was 31' away from the property and as per the site plan, there was approximately 85' separation from proposed structure and the existing residence.

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

1. Relationship and conformity with any plans and policies. Mr. Stewart said as a general rule, the Planning Board recommends a site-specific development proposal for potential CBI property when the use has the potential for adverse effects on adjoining properties. Mr. Stewart said the applicant had followed the policy devised by the Planning Board.
2. Consistency with the requested zoning district's purpose and intent. Mr. Stewart said CBI does have provisions for small businesses located in rural settings if the allowable uses are compatible. Mr. Stewart said the existing building is only grandfathered for the use that was in place before zoning was established in 1998, which is a trucking terminal. Mr. Stewart

said the trucking terminal was less compatible than the use being proposed by Mr. Beck.

3. Compatibility of all uses within the proposed district classification with other properties and conditions in the vicinity. Mr. Stewart used the power point presentation (Exhibit C) to show the surrounding properties and their uses. Mr. Stewart discussed 2 facilities (3,000 and 4,375 square feet) with metal facades, which give the impression of an industry or small business use. Mr. Stewart said these 2 facilities look similar to what Mr. Beck currently has. Mr. Stewart said the site is completely enclosed in a fence and on the site plan the applicant provided the location of an evergreen screen that would surround all sides of the property, including the front. Mr. Stewart pointed out that with the exception of warehousing and some uses within the wholesale trade sector, these uses are allowed with special requirements of both the NB and RA districts. Since the applicant cannot comply with these special requirements, he has requested a conditional use district that would in essence allow for many of the same type uses allowed in these districts. Mr. Stewart said the only requirement that could not be met was the impervious coverage. Mr. Stewart said with the existing square footage versus the expansion, Mr. Beck would be limited to just under 1,000 square feet for additions. Mr. Stewart said, "We're going from the 1,000 to the 3,700 and then the additional impervious coverage.
4. Potential impact on facilities such as roads, utilities and schools. Mr. Stewart said Long Ferry Road is classified as a minor thoroughfare from the intersection with Goodman Lake Road to East Spencer's jurisdiction. Mr. Stewart said the traffic volume was approximately 1,600 cars per day and the 13,000 capacity was from the classification from the intersection back as a minor thoroughfare. Mr. Stewart said Staff looked at the highest potential generation for traffic and came up with approximately 118 trips per day compared to the suggested 17 trips from the existing truck terminal.

Mr. Stewart referred to Attachment 1 of the Staff Report (Exhibit B), which was Mr. Beck's response to the conditional use criteria.

Mr. Stewart referred to Staff Comments in the Staff Report (Exhibit B) and said the property owner has 4 options for using his property, while only 2 seemed worthwhile. Those 2 options were to apply for a special use permit (SUP) to change from one non-conforming use to another, or make application to have the property rezoned to a conforming use. Mr. Stewart said rezoning seemed the most feasible option and therefore Staff was favorable with the request based on the compatibility of the NB district.

Mr. Stewart referred to 5 conditions listed in the Staff Report (Exhibit B) that were recommended by Staff if the Board were to approve the request.

Mr. Stewart mentioned that 2 people, Richard McCoslin and Ron Bankett, spoke at the Planning Board meeting. Mr. Stewart said their concerns were listed in the Staff Report (Exhibit B). Mr. Stewart said the Planning Board voted unanimously to approve the request.

Chairman Chamberlain asked if trucking terminal would still be allowed if the proposal were approved as requested. Mr. Stewart responded no.

Chairman Chamberlain asked the applicant if he wished to speak and Justin Beck and his attorney, James Carter, came forward.

Mr. Carter tendered Mr. Beck for questions from the Board. Mr. Carter proceeded by asking Mr. Beck to explain his intended use for the property if the application was approved. Mr. Beck said once the water level on the lake was dropped, there were people who needed a space to store their boats to protect their investments and to keep the boats out of their yards. Mr. Beck said he would be charging rent and the facility would help him generate extra income. Mr. Beck said he planned to build an attractive facility. Mr. Beck continued by saying that he personally did not want the trucking business.

Mr. Carter asked Mr. Beck what he planned for the existing building on the lot? Mr. Beck said if he did not use the facility for his personal hobbies, he might consider renting the building for smaller businesses such as a repair shop or a small car/motorcycle/boat dealership. Mr. Beck said he would be selective with who he would allow to rent the building.

Mr. Carter questioned Mr. Beck pertaining to his understanding of the uses for the property if the application was not approved. Mr. Beck said if the request was denied he could only use the property as a boat dealership or the trucking company. Mr. Beck said the neighbors were opposed to using the property for a trucking terminal and that he agreed with them. Mr. Beck discussed the dangers of meeting the trucks on the road.

Mr. Carter asked Mr. Beck if he understood the limitations proposed by Staff and if he was willing to "live with those limitations." Mr. Beck said, "absolutely."

Mr. Carter asked Mr. Beck where his customer base would derive from and Mr. Beck said most of the renters would probably come from the waterfront neighborhoods located at the end of Longs Ferry Road. Mr. Beck said the renters would not come daily, as the facility would be a seasonal use.

Mr. Carter said concerns were expressed at the Planning Board meeting about existing lighting that was not currently turned on. Mr. Beck said the complaint was that the adjoining neighbor couldn't sleep at night from the lighting. Mr. Beck agreed with the neighbor and said he had since contacted Duke Power and made arrangements to have all 3 lights removed from the poles. Mr. Beck said if

the storage facility is built, the lights would only be at the building level and there would not be a light on the neighbor's side of building. Mr. Beck said the lighting would be on the front and rear of the building.

Chairman Chamberlain opened the public hearing to entertain citizen input and with no citizens wishing to address the Board, Chairman Chamberlain closed the public hearing.

Commissioner Mitchell moved, Commissioner Sides seconded and the vote to approve the rezoning request passed unanimously.

Commissioner Mitchell moved for approval of the conditional use permit based on Staff's recommendations and the self-imposed recommendations. Commissioner Blount seconded the motion.

County Attorney Jay Dees referred to the applicant's comments about the boats/motorcycles and he asked Mr. Stewart if the applicant would need to designate a display area if he became involved in those uses?

Mr. Stewart said the site plan did not address the outside storage but he did not foresee this to be an issue on the site plan. Mr. Stewart said, "The facilities are the main thing that we're concerned about." Mr. Stewart said the Board could impose conditions regarding separation of lot lines.

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

Chairman Chamberlain provided the Clerk with a copy of the Findings of Fact (Exhibit D) for the record.

ADDITION

Correspondence

Commissioner Blount distributed a letter from Nancy James in which she expressed concern with her neighbor discharging a firearm in a residential area. Commissioner Blount said Ms. James had talked with law enforcement, Planning Staff and an attorney and was having difficulty finding assistance with the issue. Commissioner Blount suggested that Planning Staff review the issue and make a recommendation to the Board.

Commissioner Tadlock said he had also communicated with Ms. James and he asked Ed Muire of the Planning Department if Staff could undertake the issue. Mr. Muire responded yes.

RSS CONSTRUCTION UPDATE

Ed Watson of Construction Control Corporation (CCC) and Jim Christy of the Rowan-Salisbury Schools were in attendance. Mr. Watson highlighted the monthly construction update in the agenda packets.

TECHNOLOGY BID FOR JESSE C. CARSON HIGH SCHOOL

Ed Watson of Construction Control Corporation (CCC) said the Board of Education had approved the technology bid on October 10, 2005 for the new high school. Mr. Watson said CCC recommended that a contract be awarded to Ken-Nect Communications in the amount of \$174,110. Mr. Watson reviewed the bid tabulation in the agenda packets. Mr. Watson pointed out that the bid did not include the phones and intercom system. Mr. Watson said the project technology budget was \$245,000 and the phones/intercom system would have to come from these funds. Mr. Watson requested permission to enter into a contract.

Commissioner Tadlock moved, Commissioner Blount seconded and the vote to approve the request as presented passed unanimously.

TRANSFER OF FUNDS FROM RSS CURRENT EXPENSE FUND

Tara Trexler, Chief Financial Officer for Rowan-Salisbury Schools, said the Board of Education incorporated a transfer from current expense funds to capital outlay funds into the current year budget. Ms. Trexler said the purpose of the transfer was to fill capital needs not covered by bond funds for the new high school and elementary school scheduled to open in 2006.

Ms. Trexler said the North Carolina General Statutes require the Commissioners approval to finalize the transfer between funds. Ms. Trexler requested the Board's approval for the transfer of \$1,048,702 from the RSS current expense budget to the RSS capital outlay fund.

Commissioner Sides questioned the details as to what the expenditures would be. Ms. Trexler outlined the major expenditures as follows:

- High school transfer would consist of \$720,202 with major items being athletic equipment and uniforms; band uniforms and instruments; activity buses.
- Elementary transfer would consist of \$328,500 with items such as library books, media equipment, custodial and lawn care equipment; computers and other miscellaneous equipment that included athletics, music, health room furnishings, radios, and startup supplies.

Ms. Trexler said she would provide the Board with a copy of the detail for the items.

Commissioner Blount moved, Commissioner Mitchell seconded and the vote to approve the request as presented passed unanimously.

PURCHASE OF PATROL CARS FOR ROWAN COUNTY SHERIFF'S DEPARTMENT

Sandy Fisher of the Rowan County Finance Department recommended that the Board approve the purchase of ten (10) 2006 Ford Crown Victoria Police Interceptors by piggybacking off of a contract that was entered into by the City of Salisbury with Cloninger Ford. Ms. Fisher said the price per vehicle was \$400 less than a purchase would have been from state contract.

Interim County Manager William Cowan and Finance Director Leslie Heidrick explained that the \$270,000 in the budget also covered (4) additional vehicles.

Commissioner Tadlock moved, Commissioner Sides seconded and the vote to approve the request as presented passed unanimously.

At this point, Chairman Chamberlain mentioned the inadequacy of the current sound system and he requested that Ken Deal, Director of Administration, rush the purchase of the new system.

ADDITION **RAILROAD CROSSING**

Commissioner Mitchell discussed a telephone call he had received concerning a dangerous railroad crossing over Old 80 right off of Highway 52. Commissioner Mitchell said he agreed with the caller regarding the dangerous conditions.

Commissioner Mitchell moved for the Board to pass a resolution asking the State to review the crossing to determine if it met the criteria to receive cross arms and/or lights. Commissioner Tadlock seconded and the motion passed unanimously.

BUDGET AMENDMENTS

Finance Director Leslie Heidrick reviewed the budget amendments in the agenda packets as follows:

1. Recognize 4-H livestock revenue and to budget for expenditures.
2. Budget funds received for the 2005 Public Workstation Grant. The grant from the State Board of Elections would purchase a computer and printer.
3. Reduce revenue for Homeland Security Grants for this year, as the original budget was an estimate.
4. Recognize reserved funds from FY 2005 for EMS Safe Kids Grant.
5. Budget pledged donations in the amount of \$20,000 for the Red Fox Habitat at Dan Nicholas Park.

Commissioner Sides referred to the budget amendment regarding the pledged donations for the Red Fox Habitat. Commissioner Sides asked if it would take 4 years before the County would receive the \$20,000 pledged and Ms. Heidrick said yes. Ms. Heidrick also confirmed that the County was budgeting to spend \$20,000 "this year."

Commissioner Sides asked if there would be a problem in establishing a revenue account in order to allow the funds to accumulate and not be spent until all monies were received? Ms. Heidrick responded that in that case, the County should budget the monies in the general fund rather than a capital projects fund because the fund would close.

Commissioner Mitchell asked if the fund would still be restricted and Ms. Heidrick said yes.

Commissioner Sides expressed concern “with accepting \$5,000 and spending \$20,000 and having to wait 3 years for the balance of it to come in.”

Commissioner Blount mentioned that donations had been handled in the past in the manner presented in the budget amendment.

Commissioner Sides said he was uncomfortable with the practice and he felt an account should be established for the pledges to allow the funds to be spent each year as they are received.

Ms. Heidrick said the park would probably wait 4 years before starting the project, as the money was would be needed all at once.

Commissioner Mitchell moved, Commissioner Sides seconded and the vote to approve the budget amendment with Commissioner Sides’ recommendation passed unanimously.

ADDITIONS

FORMER MANAGER CONTRACT NEGOTIATIONS

County Attorney Jay Dees referred to a letter he had provided earlier to the Board. Mr. Dees explained that the letter was sent to Attorney Randy Reamer, who represents former County Manager Tim Russell. Mr. Dees said the letter was based on a motion from the previous Board meeting.

Mr. Dees discussed the proposed settlement agreement and said the agreement matched what was passed at the meeting as far as amounts and payment due date. Mr. Dees drew the Board’s attention to paragraph 14 and said it was up to the Board to determine if the language was sufficient based on the motion that was passed at the previous meeting.

Commissioner Mitchell said he was more comfortable with the language as it was in the motion of the previous meeting.

Mr. Dees said he would draft language that would satisfy the Board.

Commissioner Mitchell referred to paragraph 14 and said the intent of the motion was to remove the limitation “from his hiring private investigators to spy upon private citizens.”

Mr. Dees requested clarification and said based on the minutes of the meeting, the terms of the payment would be that if Mr. Russell were convicted of a felony involving personal gain that the money would be due back to the county.

Commissioner Mitchell said paragraph 14 restricted the contract to the amount of funds for which he personally gained and Commissioner Mitchell said it should be for the full contract amount.

By consensus the Board agreed for Mr. Dees to draft additional language for Board approval.

Chairman Chamberlain asked Commissioner Mitchell if he wanted the language to include that if Mr. Russell were convicted, he would reimburse the full amount of his contract, \$179,500, and also that the conviction did not have to be directly related to the hiring of the private investigators.

Commissioner Mitchell questioned Mr. Dees pertaining to the statute of limitations. Mr. Dees explained that the severance period was for a period of 12 months due to benefits being extended to Mr. Russell for 12 months. Mr. Dees said the effective date of the agreement would be August 3, 2005.

Chairman Chamberlain said an investigation could take longer than 12 months and he asked that the limitation of 12 months be removed.

Commissioner Mitchell said his motion never included a time period. The motion was that if convicted of an illegal act involving personal gain, the full contract amount would be refunded back to the County. Commissioner Mitchell agreed with Chairman Chamberlain that it was highly unlikely that a conviction would take place in 12 months and the motion was contingent upon a conviction.

Mr. Dees said, “In the absence of the motion containing a timeframe, it might be appropriate for the Board to entertain a motion to further clarify that issue.”

Commissioner Blount expressed concern that the contract for Mr. Russell said that if he were fired because he had been convicted of a felony for personal gain, then the County did not have to pay him the severance agreement.

Commissioner Blount said the timeframe of that process would have been that he would have to be charged, tried and convicted before being fired by the Board. Commissioner Blount said in this case, Mr. Russell had already been fired and the Board was trying to go back and correct “a condition that we’ve created ourselves.” Commissioner Blount said, “I’m not sure it’s fair to Mr. Russell to put out an indefinite window, especially when you see language about

going back on his heirs and his family.” Commissioner Blount said he preferred to see a timeframe imposed on the paragraph.

Commissioner Mitchell said there is a legal timeframe and at some point and time Mr. Russell could no longer be convicted.

Mr. Dees confirmed that there are criminal statutes of limitations and that he would be glad to research those limitations.

Commissioner Sides said the contract had no bearing on the discussion, as the contract was “completely off the table.”

Mr. Dees read from the 1994 employment contract pertaining to Mr. Russell being terminated because of a conviction.

Commissioner Sides said Mr. Russell was not terminated based on that contract. Commissioner Sides said, “The fact is, neither one of the contracts exists in entirety anymore; what has been done is a counter offer has been made to settle.” Mr. Dees responded, “And you’re absolutely right.” Commissioner Sides continued by saying, “The language of the contract has nothing to do with what we’re discussing.”

Commissioner Blount said, “But if we don’t settle then we go back to original contract, either 1994 or the other one.”

Commissioner Sides said, “No; if we don’t settle we go to court and a judge decides.”

Commissioner Mitchell moved to remove the timeframe restriction from paragraph 14; remove the hiring private investigators to spy upon private citizen restriction in 14; and change the amount of any funds for which he personally gained to the total contract or severance agreement amount. Commissioner Sides seconded the motion but clarified that he was not moving for approval of the \$179,500 but rather voting for the change to those paragraphs.

The motion passed 3-2 with Commissioners Blount and Tadlock dissenting.

Chairman Chamberlain turned to Mr. Dees and said he would assume that after the language had been drafted, “and they do not accept this, then our negotiations are over; we’ll let a judge decide.”

Commissioner Tadlock questioned Chairman Chamberlain’s comments and said he felt the Board would still have the opportunity for a counter offer.

Chairman Chamberlain responded, "Not from these 3 Commissioners."
Chairman Chamberlain said, "It looks like if this doesn't fly, we're going to go to court."

SCHOOL SUPPLY MONEY

Commissioner Blount said a few teachers who are located in several of the new schools had approached him and had explained the limited amount of money to the new schools for opening expenses such as furniture, bookshelves, video monitors, etc. Commissioner Blount said the Commissioners had placed limitations on the school supply money that wouldn't allow the purchase of some of these items.

Commissioner Blount moved to allow County Staff and Rowan-Salisbury School Staff to meet and look over the limitations to see if they could be broadened to assist the teachers. Commissioner Mitchell seconded the motion.

A brief discussion ensued and upon being put to a vote, the motion on the floor failed 2-3 with Commissioners Chamberlain, Sides and Tadlock dissenting.

BOARD APPOINTMENTS

Juvenile Crime Prevention Council

Chairman Chamberlain reported that Jon Corriher had resigned from his at-large position on this council due to conflicts with his job.

Salisbury Rowan Community Service Council

Commissioner Tadlock nominated Dorothy Gill Smith for a 2-year term to end on October 31, 2007. The nomination passed unanimously.

Parks and Recreation Commission

Chairman Chamberlain said Ken Beck had resigned from this board.

Commissioner Blount nominated Sue Kahn as a replacement for the remainder of Mr. Beck's term, which will end December 31, 2005.

Salisbury Rowan Human Relations Council

Chairman Chamberlain nominated Terry Cassell for a 3-year term to end on October 31, 2008. The nomination passed unanimously.

Salisbury Rowan Economic Development Commission

Commissioner Blount nominated Raymond Coltrain for a 3-year term to end on June 30, 2008. The nomination carried unanimously.

Woodleaf Volunteer Fire Department

Commissioner Tadlock nominated Thomas Barber to fill the vacancy on the Woodleaf Volunteer Fire Department's Board of Fire Commissioners. The nomination carried.

Chairman Chamberlain nominated Walter Owens to fill the vacancy on the NC Firemen's Relief Fund Board of Trustees. The nomination passed unanimously.

PUBLIC COMMENT PERIOD

Joan Smith, a teacher from Knox Middle School, said she had been surprised to hear that Rowan-Salisbury Schools had so much money left at the end of the year. Ms. Smith said she had been teaching "here" for 7 years and she hears that they "run out of copy paper or copies because we don't have any money." Ms. Smith said, it "blew my mind to hear that our County does have money and they're not using it."

Commissioner Sides said, "They are putting it in the bank and drawing interest."

Chairman Chamberlain encouraged Ms. Smith to repeat her comments to the Board of Education.

EXECUTIVE SESSION

Commissioner Mitchell moved for the Board to enter Closed Session at 9:05 pm pursuant to North Carolina General Statutes 143-318.11 for the purpose of a personnel issue.

Commissioner Blount seconded and the motion passed unanimously.

RETURN TO OPEN SESSION/ADJOURNMENT

The Board returned to Open Session at 9:20 pm.

Commissioner Mitchell moved to hire Terri Powlas as Deputy Clerk on a full-time basis. The motion was followed by a second from Commissioner Sides.

Commissioner Sides mentioned that Ms. Powlas was currently employed by the Rowan County Human Resources Department. Commissioner Sides said the Personnel Board had opted to post the Deputy Clerk's position internally in an effort to promote from within. Commissioner Sides said the same process would be used to fill Ms. Powlas' vacated position.

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

Commissioner Tadlock moved, Commissioner Mitchell seconded and the motion to adjourn the meeting at 9:23 pm passed unanimously.

Respectfully Submitted,

Carolyn Athey
Clerk to the Board