

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

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

**ADDITIONS/APPROVAL OF THE AGENDA**

- Commissioner Blount distributed an article regarding volunteer fire departments for the Board's review.
  
- Commissioner Blount added a presentation from former County Commissioner Leda Belk.

Commissioner Blount moved, Commissioner Tadlock seconded and the vote to approve the addition passed unanimously.

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

Chairman Chamberlain added the presentation from Ms. Belk as agenda item 1a.

## **CONSIDERATION OF CONSENT AGENDA**

Commissioner Mitchell moved to approve the Consent Agenda as presented. Commissioner Blount seconded and the motion passed unanimously.

The Consent Agenda consisted of the following items:

- A. Approval of October 17, 2005 minutes
- B. Approval of October 27, 2005 minutes
- C. Schedule Public Hearing for FY '07 Community Transportation Grant (CTP)
- D. Award of Service Side Arm to Retiring Sheriff's Sergeant Danny Childress

## **ADDITION**

Former County Commissioner Leda Belk said that for many years private funds had been sought and received for projects such as public libraries and parks. Ms. Belk felt that a recent revision to the policy regarding receipt of donations would discourage future donors and delay county projects while waiting on multi-year pledges. Ms. Belk presented the Board with a check in the amount of \$15,000 from her and her husband for completion of the Red Fox Habitat. Ms. Belk said the check fulfilled their obligation for the pledge. A round of applause followed the presentation.

## **PUBLIC HEARING FOR UNANIMOUS PETITIONS FOR CHASE LAKE LANE AND POPEYE LOOP**

Columbus Hawks of the Rowan County Planning Department presented the Staff Report regarding the unanimous petitions received for the proposed road names of Chase Lake Lane and Popeye Loop. Mr. Hawks explained that the roads service a campground and he said that Staff supported the petition requests.

Commissioner Sides moved, Commissioner Mitchell seconded and the vote to approve the road names as presented passed unanimously.

## **PUBLIC HEARING FOR INCENTIVE GRANT TO TKC LAND DEVELOPMENT II, LLC**

Chairman Chamberlain read a portion of the notice that was advertised in the Salisbury Post regarding the public hearing for the incentive to TKC Land Development II, LLC.

Chairman Chamberlain opened the floor for discussion from the Board members.

Commissioner Sides moved that the public hearing was improper in that all stipulations of General Statutes 158-7.1 were not filled prior to setting the public hearing.

With no additional comments from the Board, Chairman Chamberlain opened the public hearing to entertain citizen input regarding the proposed incentive grant.

There were no citizens wishing to address the Board therefore, Chairman Chamberlain closed the public hearing.

Commissioner Blount asked Attorney Jay Dees to provide an opinion. Mr. Dees recalled a previous conversation he had held with Commissioner Sides regarding the General Statute that allows a county to sell, lease or purchase property for local development incentives or grants. Mr. Dees explained that the statute requires the County to determine the impact on economic development such as the hourly wage, number of jobs and the investment that would stimulate the economy. Mr. Dees said the information provided to the Board at previous meetings dealt with 1) the financial development (\$4 million) and 2) the creation of possibly 14 new jobs (a percentage making over \$50,000 per year). Mr. Dees said he and Commissioner Sides had discussed whether the information met the General Statute requirements and he said he was of the opinion it was a “gray area.”

Commissioner Sides read from General Statutes 158-7.1 and said the notice for the public hearing was improper in that the current fair market value of the property had not been established. Commissioner Sides said the requirements had not been satisfied and that he felt the Board should not proceed without abiding by the General Statutes.

Mr. Dees said the notice itself did not recite the price being considered and he confirmed to Commissioner Sides that the price is required by the General Statutes. Mr. Dees said when determining the fair market value under the referenced statute, the Board had the option of considering the amount of expected tax revenues for improvements, perspective sales tax revenues to be generated, as well as other tax revenues/income. Mr. Dees agreed that the price was set “some time ago.”

Commissioner Blount said he felt comfortable moving ahead with the process as had been set forth and advertised.

Commissioner Sides said it had been the history of prior Boards to proceed regardless of the requirements in the General Statutes and he said the Board should not proceed without abiding by the law.

Mr. Dees said it was clear in the statute that the notice should recite the “proposed consideration.”

Commissioner Sides repeated his motion, which was to postpone the public hearing until the General Statute requirements had been met.

The motion died for lack of a second.

Commissioner Blount moved to grant the incentive as described in the public notice. Commissioner Tadlock seconded the motion.

Commissioner Sides asked if the motion included the contract that was in the agenda packets and Commissioner Blount said the motion was to grant the reduction in the price of the land.

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

Commissioner Blount moved to enter into the contract presented by Staff for the sale of the property as listed. Commissioner Tadlock seconded the motion.

Commissioner Sides said that Alan Lewis of TKC Land Development II, LLC had spoke at a previous meeting and said he was not asking for incentives, however, Commissioner Sides felt that all that was currently being discussed was incentives. Commissioner Sides also referred to Section 9 of the contract with regards to paying Mr. Lewis a commission for selling the property "to himself." Commissioner Sides said this was a conflict of interest.

Chairman Chamberlain said Rowan County was in the situation where jobs are needed and that a good tenant was needed in Summit Corporate Center. Chairman Chamberlain said he would like to publicly state, "From this day the i's will be dotted and the t's will be crossed."

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

#### **APPROVAL OF PROPOSED AMENDMENT TO SOLID WASTE ORDINANCE**

Paul Canup of Environmental Services provided the Board with a handout and reviewed the proposed changes to Sections 19-30 and 19-46 of the ordinance. Mr. Canup pointed out in Section 19-46 that acceptance of solid waste generated outside of Rowan County would have to be approved by the Board of Commissioners.

Mr. Canup explained that the County was permitted to accept 415 tons of refuse per day under Phase 3 and that the County was currently accepting 390 tons per day. Mr. Canup also reported that new technology will allow the County to connect Phases 1 through 5 and 6 through 9 at the landfill and that "bridging across" the stream will allow the County 140-plus years at the existing landfill.

In response to a query from Commissioner Mitchell, Mr. Canup said Staff was only requesting to change the items that were highlighted in the handout.

Commissioner Blount questioned the need to hold a public hearing and Kathryn Jolly, Environmental Services Director, explained that the public hearing was held at a previous meeting when Staff had initially presented the revisions.

Commissioner Sides questioned the length of the current contract for acceptance of waste from Davie County. Ms. Jolly said it was a 5-year contract that was into its second year.

Commissioner Sides asked about the solid waste being received from Iredell County and Ms. Jolly said she did not have those figures with her. Ms. Jolly continued by saying that the Environmental Services Department felt the landfill should be a solid waste facility for the citizens of Rowan County. Ms. Jolly said if given a choice, she would like to work towards the goal of having a “transfer station in this County where we could take Salisbury’s waste and basically close the borders for outside waste.”

Commissioner Sides said Rowan County had “spent the big bucks to build a facility and it’s going to be easier for them to bring their waste here than to build a facility.” Commissioner Sides said he would like for the County to “work away from taking outside waste” and to do so on an emergency basis. Commissioner Sides also said that Davie County should be made aware that they should have plans in place once their contract with Rowan terminates.

Commissioner Blount asked if there was a contract with Iredell County and Ms. Jolly said no. Ms. Jolly added that the rates for out-of-county waste are the lowest in the area with the exception of one.

Commissioner Sides said the County should consider adjusting its rates so that it would “not be as attractive for them to come here.”

Commissioner Blount moved, Commissioner Mitchell seconded and the vote to approve the modifications as submitted by Staff passed unanimously.

#### **APPROVAL OF PURCHASE OF LANDFILL EQUIPMENT**

Paul Canup of the Environmental Services Department reviewed the request to appropriate additional funds for the purchase of an excavator and off-road truck. Mr. Canup said an extra \$110,000 was needed.

Mr. Canup said the estimate for the off-road truck was \$215,000 and that an offer of \$80,000 was received for a trade-in on the old scraper. Mr. Canup said the scraper would need to be declared as surplus before it could be traded.

Commissioner Sides moved, Commissioner Tadlock seconded and the vote was unanimous to approve the budget change, declare the scraper as surplus and to move the transfer of the funds from the Enterprise Fund to cover the purchase of the equipment.

**APPROVAL OF REVISED BUDGET FOR THE CRIMINAL JUSTICE PARTNERSHIP PROGRAM**

Interim County Manager William Cowan presented the revised budget for the Criminal Justice Partnership Program (CJPP) in the amount of \$123,093. Mr. Cowan highlighted the revisions, which reduced the Pretrial Release Program (PTR) by twenty-five percent, or \$20,457. Mr. Cowan added that in order to keep PTR, the County would have to fund the program in full beginning in fiscal year 2006-07.

Commissioner Sides said it was important for the public to understand the issue under consideration and he highlighted the benefits and savings to the County provided by the PTR Program.

Commissioner Blount moved to modify the budget as presented and to also approve the funding for PTR, which was the next agenda item. Commissioner Sides seconded the motion and the motion passed unanimously.

**APPROVAL OF FUNDING FOR PRETRIAL RELEASE PROGRAM**

A motion was made and approved in the above discussion to approve funding for the Pretrial Release Program.

**DISCUSSION REGARDING HIRING OF PERMANENT COUNTY MANAGER**

Commissioner Sides said once the Board had established the requirements for the position of County Manager, he would like to see the Board advertise the position. Commissioner Sides said he did not see the need for hiring a recruiting agency to assist with filling the position. Commissioner Sides also said he would like to see the Board advertise and hire from within Rowan County if possible.

Commissioner Blount referred to the information in the agenda packets and said he felt it would be wise for the Board to take advantage of the free expertise offered by the North Carolina Association of County Commissioners (NCACC). Commissioner Blount said the Board should meet with the NCACC to discuss the recruiting process for the County Manager's position.

Commissioner Blount offered the following suggestions for the Board's consideration:

- *Experience.* Should prefer past experience as a County Manager, an Assistant County Manager or Department Director level, or manager of a large municipality.
- *Education.* Prefer master's level in Public Administration or similar field or Bachelor of Science in Public Administration, accounting, planning or similar field.
- *Geographic Area.* Agreed with Commissioner Sides that if the best candidate was in Rowan County that the individual should be hired;

however advertising should be done as widely as possible without exorbitant costs.

- *Other Qualifications.* A proven record of working with a diverse set of people, governmental budgets and managing a large staff. Commissioner Blount said the Board should “tie down” the pay scale in a manner that could be negotiated based on education and experience.

Commissioner Blount felt all Commissioners should be involved in the process. Commissioner Blount also said the Board should consider an employment contract and severance package as most managers would ask for a protection package.

Commissioner Tadlock expressed his appreciation for the work of the current Interim County Manager, William Cowan. Commissioner Tadlock said Mr. Cowan had been valuable to the Board and he thanked Mr. Cowan for his service. Commissioner Tadlock said he was uncertain how long Mr. Cowan would be in Rowan County and he said he was not sure the Board needed to move rapidly in hiring a permanent County Manager.

Chairman Chamberlain was of the opinion that the Board should hire a County Manager and also get back to land use planning before the retreat, which is normally held in February.

Commissioner Mitchell agreed with Commissioner Sides in that he preferred for the Board to do its own hiring. Commissioner Mitchell said the Board could use the NCACC if additional assistance was needed but he felt the Board was more than capable of handling the task. Commissioner Mitchell said the draft of the job description that had been prepared “was a very good start” and it had included most of Commissioner Blount’s requests. Commissioner Mitchell said he was confident in the Board’s ability to seek the right candidate and he agreed that the process needed to be established and moved upon quickly.

Chairman Chamberlain appointed a committee consisting of Commissioner Blount, Mr. Cowan, Ken Deal and himself to begin the process for hiring a County Manager.

Commissioner Blount asked that Mr. Cowan contact the NCACC to seek advice regarding the hiring process prior to the first committee meeting.

Chairman Chamberlain called for a short break at 7:55 pm. Chairman Chamberlain reconvened the meeting at 8:05 pm.

### **BUDGET AMENDMENTS**

Finance Director Leslie Heidrick reviewed the budget amendments as follows:

1. To appropriate fund balance for the County match to the FY 2006 State increase in Cooperative Extension salaries.

2. Recognize 4-H Equine revenue and budget for 4-H Equine expenditures.
3. Recognize 4-H Livestock revenue and budget for 4-H Livestock expenditures.
4. Combine monies from horse auction and a bequest to replace outdated computer software.
5. Donation from Alcoa for t-shirts for Big Sweep.
6. For Senior Services to adjust Title V and SAFE Grant revenue and expense to match grant awards; Cover a separate Worker's Comp policy to cover the Title V enrollees not working in County Departments; Rent for use of Community Center for senior meal site in China Grove.
7. Budget \$11,175 for DSS for travel for Work First participants.

Commissioner Sides moved, Commissioner Blount seconded and the vote to approve the budget amendments passed unanimously.

### **BOARD APPOINTMENTS**

#### **Rowan County Jury Commission**

Commissioner Blount nominated Steven Thackery for reappointment for a 2-year term that will end on November 30, 2007. The nomination passed unanimously.

#### **Rowan County Nursing Home Advisory Committee**

Commissioner Blount nominated Joseph Barton for reappointment for a 3-year term that will end on November 30, 2008. The nomination passed unanimously.

#### **Salisbury Rowan Human Relations Council**

Commissioner Tadlock moved to appoint Norma Torres, Eleanor Qadirah and Peggy Johnson for 2-year terms that will end on October 31, 2007. The motion passed unanimously.

#### **Juvenile Crime Prevention Council**

Commissioner Sides nominated Katelyn Horning for the Youth- at-Large slot for a 2-year term that will end on October 31, 2007. The nomination passed unanimously.

#### **Adult Care Home Community Advisory Committee**

Commissioner Blount nominated Kate Petherick for an initial 1-year term that will end on October 31, 2006. The nomination passed unanimously.

Commissioner Blount nominated Chris Chaney for reappointment for a 3-year term that will end on August 31, 2008. The appointment passed unanimously.

Commissioner Blount moved to remove Ola Mae Kirby-Elliott from the committee due to failure to complete attendance requirements. The motion passed unanimously.

### **Local Emergency Planning Committee**

Commissioner Sides moved to appoint the following individuals to serve on the Local Emergency Planning Committee:

- George Fink; Piedmont Natural Gas
- Rick Parker; Rowan Regional Medical Center
- Darnell Woods; Norfolk Southern Railroad
- Barry Hower; NC Highway Patrol
- Richard Carroll; Progress Energy

The motion passed unanimously.

### **Board of Health**

Commissioner Mitchell moved to accept the resignation of Dr. Cynthia Almond and the motion passed unanimously.

Commissioner Tadlock moved to appoint Dr. Luther Lyerly for a 3-year term, effective January 1, 2006 and ending on December 31, 2009. The motion passed unanimously.

### **DISCUSSION REGARDING SETTLEMENT WITH FORMER COUNTY MANAGER**

County Attorney Jay Dees presented a letter/proposal from Attorney Randy Reamer and former County Manager Tim Russell for the Board's consideration.

Commissioner Mitchell said the issue had continued for a considerable length of time and that the Board needed to bring the matter to closure. Commissioner Mitchell referred to the last sentence of the letter from Mr. Reamer, which read: "Let's quit this silliness and get this done." Commissioner Mitchell said he personally did not find the issue silly but rather quire serious and that the issues that will follow would be as serious. Commissioner Mitchell said he was concerned that the matter was deemed capricious and that his thoughts on the issue had not been "silly nor quick to come about."

Commissioner Mitchell said Board had voted to approve the \$179,500 figure and that while he while he was "not happy with it all" he would move to approve the terms as described in paragraph 3 of the letter dated October 31, 2005. Commissioner Blount seconded the motion.

Chairman Chamberlain read paragraph 3 out loud and asked when the 12-month period began in regards to the motion?

Commissioner Mitchell asked Mr. Dees how long he anticipated the investigation would last? Mr. Dees responded that the Board had previously discussed the 12-month context as running from the date the settlement agreement was executed.

Commissioner Mitchell agreed that the date the settlement agreement was executed was to be included in his motion.

Commissioner Sides said one issue that bothered him with Commissioner Mitchell's change of position was the fact "that it's no longer if he's convicted of a felony that all the money is returned; now he would only return what he's put in escrow, which is the difference between \$179,500 and \$118,000."

Commissioner Sides said that for several months he had requested that Mr. Russell return a \$600 travel check that was issued on August 1, 2005.

Commissioner Sides said he had also discovered that over a period of years, that alcohol had been purchased using Mr. Russell's county-issued credit card.

Commissioner Sides said Mr. Russell was the only individual authorized to approve purchases on the credit card and that he had approved alcohol purchases that went against county policy. Commissioner Sides felt Mr. Russell should pay back the \$600 travel check as well as the monies illegally charged against county policies.

Mr. Dees said that the previous agreements had all been based on the \$600 travel check being returned however the issue of the alcohol reimbursement had not been part of the discussions.

Chairman Chamberlain asked if the Board could assume the motion included the return of the \$600 and Commissioner Mitchell said yes.

At Chairman Chamberlain's request, Commissioner Mitchell restated the motion as follows: To end the Board's involvement with the severance package and to some extent, with Mr. Russell, barring the escrow account that is created per the language of paragraph 3 of the letter dated October 31, 2005 from Kluttz, Reamer, Hayes, Randolph & Adkins, LLP.

Upon being put to a vote, the motion passed 3-2 with Commissioners Chamberlain and Sides dissenting.

Commissioner Sides moved that the Board determine the amount of alcohol that was purchased on the county-issued credit card and that the money be requested of Mr. Russell to be returned to the County. Commissioner Mitchell seconded the motion.

Commissioner Mitchell questioned the total tabulation of the receipts.

Commissioner Sides said he was not just referring to the figures he had presented to the Board but that he had discovered alcohol was purchased for Christmas parties and other functions that were in complete violation of county policy. Commissioner Sides said Mr. Russell was the County Manager and that he was responsible for policy enforcement. Commissioner Sides said the

Finance Director would be responsible for determining the amount to be reimbursed.

Chairman Chamberlain said he could support the motion but not as a condition for the settlement with Mr. Russell. Commissioner Sides responded that the issue was not part of the settlement but rather a totally separate matter.

Commissioner Blount said he understood Commissioner Sides' concern and he continued by saying that the Board was aware that alcohol was served at the Christmas parties and that someone would have to pay for it. Commissioner Blount said he could not see how the County Manager could be blamed.

Commissioner Sides responded by saying that the former County Manager was aware of and exercised county policy and that he had allowed the alcohol to be purchased against county policy.

The motion on the floor passed on a 3-2 vote with Commissioners Blount and Tadlock dissenting.

Ms. Heidrick requested clarification as to how far back she was to tabulate the purchases and Commissioner Sides responded 3 years.

Before moving to the next agenda item, Mr. Dees recused himself from the discussion regarding CUP-01-05 for Davidson Broadcasting.

#### **PUBLIC COMMENT PERIOD**

Chairman Chamberlain opened the Public Comment Period to entertain citizen input on any matter other than the tower issue.

Brendan Davidson said he was before the Board as a citizen as well as a county employee. Mr. Davidson proposed that the Board allow county employees to have input in the selection of the County Manager. Mr. Davidson suggested that the Board present the top candidates to county employees for a vote in the hiring process.

With no other citizens wishing to address the Board, Chairman Chamberlain closed the public hearing.

Chairman Chamberlain called for a break at 8:30 pm.

#### **DISCUSSION REGARDING CUP-01-05 FOR DAVIDSON BROADCASTING**

The minutes for this discussion regarding CUP-01-05 for Davidson Broadcasting were taken by Ronald Grillo, Court Reporter of Huseby, Incorporated, 1230 W. Morehead Street, #408, Charlotte, North Carolina.

## **PUBLIC COMMENT PERIOD**

At the conclusion of the discussion regarding CUP-01-05 for Davidson Broadcasting, Chairman Chamberlain held a second Public Comment Period. The following citizens addressed the Board:

1. Randy Reamer thanked the Board for its consideration of the issue.
2. Adele Goodman of 2330 Corriher Grange Road said she did not own a cell phone due to being afraid of radiation. Ms. Goodman said early studies show that cell phones cause tumors and she felt that in approximately 15-20 years there would be evidence that reveals that towers cause cancers and leukemia.
3. Marian Rollans said she owned land that would be near the proposed tower. Ms. Rollans said she didn't understand how the Board had voted different ways pertaining to the visual impacts. Ms. Rollans said the Board seemed concern with the property rights for the one property owner as opposed to the five surrounding property owners. Ms. Rollans expressed appreciation for the Board's study of the issue. Ms. Rollans said she felt that citizens have had to go above and beyond the call of duty to have their rights heard. Ms. Rollans said the Commissioners were voted into office to protect the citizens and had finally done so. (Applause from audience).
4. James Rollans showed a scale model of a home and then set up a mock tower with lights to demonstrate the visual impact of a broadcast tower. Mr. Rollans said the tower would have affected everyone who lives in the community. Mr. Rollans thanked the Board. (Mr. Rollans was not at the microphone and inaudible on tape recording).
5. Jerry Connelly of 4470 Brown Road in Mount Ulla said he was a cancer survivor and had taken 43 weeks of radiation treatments in 1971. Mr. Connelly said the more towers that are erected, "the more cancer survivors you might have."
6. Brenda Brown of 2525 Centenary Church Road commented that she had been broadsided by questions from Attorney Derek Allen during the previous hearing. Ms. Brown said she had been asked if she trusted governmental agencies and that her testimony had revealed that there were certain government agencies that she did not trust. Ms. Brown continued by saying she should have asked Mr. Allen if he trusted certain agencies and she then suggested different responses depending on how he would have answered. Ms. Brown said the Board was elected to protect the citizens and had a charge to keep. Ms. Brown expressed appreciation for the Board's vote.
7. Tina Hall thanked the Board for its time. Ms. Hall said countless hours had gone into the issue and the Board had ultimately voted to protect the many families in the community.

Chairman Chamberlain said the Board had voted on the facts presented. Chairman Chamberlain agreed with comments from Commissioner Mitchell and

said he would have “loved to have permitted the tower just based on property rights.” Chairman Chamberlain said the decision was a judicial decision and based on facts. Chairman Chamberlain said the Board had put in many hours and the vote had been taken. Chairman Chamberlain asked the citizens to “let it go.”

With no further citizen input, Chairman Chamberlain closed the Public Comment Period.

**ADJOURNMENT**

Commissioner Mitchell moved, Commissioner Blount seconded and the vote to adjourn the meeting at 10:25 pm passed unanimously.

Respectfully Submitted,

Carolyn Athey  
Clerk to the Board