

**MINUTES OF THE MEETING OF THE  
ROWAN COUNTY BOARD OF COMMISSIONERS  
January 3, 2006 – 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  
Chad Mitchell, Member

Absent: Frank Tadlock, 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.

Chairman Chamberlain provided the Invocation and also led the Pledge of Allegiance.

**ADDITIONS/DELETIONS**

Interim County Manager William Cowan requested to add four (4) items to the agenda as follows:

- Resolution awarding the contract for the 2006 Digital Orthophoto Project
- Resolution concerning Senate Bill 223, which requires counties to order new voting machines by January 20, 2006
- Set public hearing for January 17, 2006 for proposed industrial development revenue bonds for the benefit of Taylor Clay Products, Inc.
- Set public hearing for January 17, 2006 for proposed industrial development revenue bonds for the benefit of DDSM, LLC

Mr. Cowan also requested to remove the Closed Session from the agenda.

Commissioner Blount moved, Commissioner Sides seconded and the vote to add the Resolution awarding the contract for the 2006 Digital Orthophoto Project passed unanimously (4-0). Chairman Chamberlain added the Resolution as agenda Item #2a.

Commissioner Blount moved, Commissioner Mitchell seconded and the vote to add the Resolution regarding the voting equipment passed unanimously (4-0). Chairman Chamberlain added the issue to the Consent Agenda as Item H.

Commissioner Sides moved, Commissioner Blount seconded and the vote passed unanimously (4-0) to set the public hearings for January 17, 2006 for the proposed industrial development revenue bonds for Taylor Clay Products, Inc. and DDSM, LLC. Chairman Chamberlain added the public hearings to the Consent Agenda as Item I.

Commissioner Blount moved, Commissioner Mitchell seconded and the vote to remove the Closed Session from the agenda passed unanimously (4-0).

Chairman Chamberlain moved to delete Item #11 from the agenda. The motion was seconded by Commissioner Blount and passed unanimously (4-0).

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

Commissioner Mitchell moved to approve the Consent Agenda followed by a second from Commissioner Blount.

Commissioner Sides referred to Item G concerning the agreement with Time Warner Cable and he clarified that the County was not paying \$846.75/month for the free business class Road Runner service. Commissioner Sides said the figure reflected the value of the service.

Upon being put to a vote the motion passed unanimously (4-0).

The Consent Agenda consisted of the following items:

- A. Approval of the Minutes for December 5, 2005
- B. Approval of Proclamation Honoring Martin Luther King, Jr. Day
- C. Approval for the Reappointment of the Rowan County Tax Collector Glen Moore for a One-Year Term
- D. Set Public Hearing for January 17, 2006 for the Proposed Road Name of Huckleberry Lane
- E. Set Public Hearing for January 17, 2006 for PCUR 04-05
- F. Approval of Grant Applications for Rowan County Sheriff's Department
- G. Sponsorship Letter of Agreement between Time Warner Cable and Dan Nicholas Park

**COMMENTS REGARDING COMMISSIONER FRANK TADLOCK**

Interim County Manager William Cowan reported that he had spoken with Commissioner Tadlock earlier in the day and that he was recovering well from surgery. Mr. Cowan said Commissioner Tadlock wished everyone the best and that he had expressed hopes of attending the next Commission meeting. Mr. Cowan said he and Commissioner Sides had delivered Commissioner Tadlock's agenda packet to him and that he was keeping up with county business during his absence.

**PUBLIC HEARING FOR Z-10-05**

John Hanes of the Rowan County Planning Department reviewed the Staff Report for Z-10-05, a rezoning request from Bobby Ketchie for an addition to his company, Ketchie Marble. The application requests that the property be rezoned from Rural Agricultural (RA) to Industrial (IND).

Mr. Hanes presented a power point presentation and explained that Mr. Ketchie owns two tracts totaling approximately 20.78 acres with frontage on Oddie Road. The existing business occupies 20,000 square feet on the site and the rezoning must be granted before the 5,000 square feet addition could take place. Mr. Hanes said the business existed prior to the implementation of county zoning and that the rezoning would make the business a conforming use.

Mr. Hanes highlighted the Zoning Criteria and Staff Comments. He also reported that the Planning Board had voted to unanimously to approve the application.

Mr. Hanes referred to the Statement of Reasonableness and Consistency in the agenda packets, which he said was required of a rezoning as of January 1, 2006.

The petitioner, Bobby Ketchie, addressed the Board and explained that he wished to add space to the existing business and that by doing so, it would correct the zoning in the process.

Chairman Chamberlain opened the public hearing to entertain citizen input regarding Z-10-05. With no citizens wishing to address the Board, Chairman Chamberlain closed the public hearing.

Commissioner Mitchell moved, Commissioner Blount seconded and the vote to approve the request as presented passed unanimously (4-0).

**RESOLUTION AWARDING THE CONTRACT FOR THE 2006 DIGITAL ORTHOPHOTO PROJECT**

Ed Muire, Rowan County Planning Manager, explained that the resolution was "time sensitive" in that Staff would like to work through the contract with the vendor in order to have the photos taken in early February.

Mr. Muire reported that the budget for the project was \$120,000. Mr. Muire said (4) bids were received and were all under budget. Mr. Muire said the City of Salisbury would

piggyback onto the recommended contract with Spatial Data Consultants for planimetric data capture and that the City would contribute \$12,900 towards the total cost, which was \$100,796.00.

Mr. Muire said the County Manager would negotiate the contract and he said a draft of the contract had been submitted to the County Attorney for review.

Commissioner Sides moved, Commissioner Blount seconded and the vote to approve the Resolution as presented passed unanimously.

#### **PUBLIC HEARING FOR Z-09-05**

Ed Muire, Rowan County Planning Manager, provided the Staff Report pertaining to the rezoning request from Roger Spillman. Mr. Muire said the property in question was located at the intersection of Highway 70, Statesville Boulevard and Third Creek Church Road. Mr. Muire said there were no specific plans accompanying the request. Mr. Muire said the application requested consideration to change from the Rural Agricultural (RA) designation to Commercial, Business, Industrial (CBI).

Mr. Muire provided a power point presentation to depict the site and the surrounding areas.

Mr. Muire reviewed the Zoning Criteria and said there were no adopted comprehensive land use plans in effect in the area, however the County's Thoroughfare Plan was recognized as the guide in this area. Mr. Muire said the plan was adopted in 1999 and affects all areas of the County except for the municipalities. Mr. Muire added that Cleveland and Rockwell were part of the plan when it was adopted in 1999.

Mr. Muire continued to highlight the Zoning Criteria as he reviewed the traffic analysis zone (TAZ) for the site. Mr. Muire used the power point presentation as he pointed out the industrial growth in the TAZ. Mr. Muire said Hwy 70 represented significant economic development opportunities with the widening of the highway, installation of the water line and several major industrial employers located along the corridor. Mr. Muire said rail was also available.

Mr. Muire read from the Staff Conclusions and Recommendation listed in the Staff Report. Mr. Muire pointed out that if the site was rezoned to Commercial and Mr. Spillman chose to subdivide the property, the request would come back to the Board. Mr. Muire said limitations could be imposed upon the property for its uses, as it would require a conditional use permit.

Mr. Muire said the Borders had spoke at the Planning Board courtesy hearing and were concerned about the uncertainty of the development plans for the property if it were rezoned CBI. Mr. Muire said the Planning Board had a "rough time" with the case and had voted 5-3 in favor of no recommendation.

Chairman Chamberlain asked if the applicant would like to comment and Roger Spillman came forward.

Mr. Spillman said property in question was approximately 6 ½ acres. Mr. Spillman said Commercial zoning appeared to be the best use for the property.

Commissioner Sides questioned Mr. Spillman regarding his plans for the property. Mr. Spillman said he had received inquiries on the property for commercial uses and he said when you mention rezoning to potential buyers, “you lose them.” Mr. Spillman said he would like to market the property as commercial.

Chairman Chamberlain opened the public hearing to entertain citizen input. The following citizens addressed the Board:

- Mr. and Ms. Borders (first name inaudible) and Kathy Borders. Ms. Borders expressed concern with the request as she said her property adjoined the property in question. Ms. Borders said if they had “known this in the past, we would not have bought this property.” Ms. Borders asked if the rezoning were granted, would Mr. Spillman buy her property since she had no desire to reside in a commercial area.

Chairman Chamberlain explained that countywide zoning was implemented in 1996 and that the County was getting ready to get back into “some sort of plan for our county.” Chairman Chamberlain said there would be some areas zoned specifically for commercial and industrial and that the Borders were located in one of those areas.

Ms. Borders said she was from Statesville and that she didn’t realize “all this was going on” until she had received a letter. Ms. Borders said she felt they had been “messed over.”

Chairman Chamberlain asked that Mr. Muire walk out with the Borders and explain the process to them.

- Henry Stockton said he owned property next to Mr. Spillman’s. Mr. Stockton expressed concern that Mr. Spillman was requesting a rezoning but yet did not know what he planned to do with the property. Mr. Stockton also said he felt the Planning Board should have notified all of the neighbors that a rezoning was being requested. Mr. Stockton said the sign that was placed in the yard was not visible due to the surrounding weeds and limbs and that most neighbors didn’t get to attend the Planning Board meeting. Mr. Stockton said he would like to go on record as opposed to the rezoning until Mr. Spillman developed plans for the property.
- Cedric Cuthbertson said he lives across from the Spillman property. Mr. Cuthbertson referred to a wood/pallet business down the road, which he said creates “a lot of chaos” in the road. Mr. Cuthbertson described the area as “very busy” due to the industry traffic from Celanese, Freightliner and Grinnell. Mr. Cuthbertson said “not knowing” Mr. Spillman’s plans for the property was not fair to the neighbors.

Commissioner Sides said the area would not remain “country” with the 4 lanes of traffic coming through the area. Commissioner Sides said everyone wants the right to use their property how they wish but yet it seemed that “nobody in the county wants the guy next door to be able to do what he wants with his property.” Commissioner Sides said the decision for the Board was not an easy one. Commissioner Sides referred to the sign mentioned by Mr. Stockton and said he felt Staff would not have put a sign in the weeds. Commissioner Sides said many changes were coming to the area in question.

Mr. Stockton said he did not want all of the changes at one time and that he felt someone was “trying to pull something over” and he also asked why he didn’t receive a letter.

- David Brown asked if proposed businesses would pollute the water, erode the soil or cause air pollution. Mr. Brown wanted to know how many people would be hired and would they be hired locally?

Chairman Chamberlain clarified that the Board was considering a rezoning only and that Mr. Spillman was not asking for a particular business.

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

Commissioner Mitchell asked if the Planning Board discussed restrictions for the potential rezoning? Mr. Muire said the restrictions were with regard to Mr. Spillman deciding to subdivide the property. Mr. Muire said it would be a commercial district and limitations could be placed on the property at the time of the subdivision.

Commissioner Mitchell moved, Commissioner Sides seconded and the vote to approve the rezoning application passed unanimously (4-0).

Mr. Muire reminded the Board that changes to the General Statutes requires that a Statement of Reasonableness and Consistency accompany any approval/denial of a rezoning request. Mr. Muire said Staff had provided suggested findings to the Board. Mr. Muire said there are different opinions across the state as to what satisfies the requirement. Mr. Muire said the Statement would give a sense of how the Board had arrived at its decision and that he felt it would be sufficient for the record at this time.

Commissioner Sides asked if it was possible to attach a statement to the Zoning Ordinance that would label it as a comprehensive plan that would “cover us in any of these future cases?” Mr. Muire responded that it could be done and he added that in his involvement with the Institute of Government Staff, that a “Zoning Ordinance by its nature is comprehensive.” Mr. Muire deferred the issue to County Attorney Jay Dees.

Chairman Chamberlain asked Mr. Muire if he recommended reading of the Statement of Reasonableness and Consistency or to enter the Statement into the record? Mr. Muire said this could be done at the pleasure of the Board. Chairman Chamberlain then read portions of the Statement.

### **Revision to Solid Waste Ordinance**

Paul Canup of the Environmental Services Department provided a brief history regarding the request before the Board.

Mr. Canup said Turkey Vultures had become increasingly abundant and destructive at the landfill in tearing up equipment, signs, fabric in the lagoon and also creating a mess on buildings, etc.

Mr. Canup said he had contacted the US Department of Agriculture (USDA) and NC Wildlife Staff about the removal of the Turkey Vultures. The USDA had recommended shooting approximately 1 dozen of the vultures and placing the dead animals where the others congregate. Mr. Canup said the USDA felt this might “run some of the others away.” Mr. Canup said there was also a method using an explosive device that was allowed however the USDA didn’t feel this would work due to the abundance of food at the landfill. Mr. Canup said the County would have to follow the USDA permitting process in order to shoot the vultures.

Mr. Canup asked the Board to change the Rowan County Solid Waste Ordinance Section 19-40(f) so that Staff could comply with the USDA procedures.

Commissioner Sides said he felt authorization should come from the County Manager and that any individual on the site discharging a firearm should have written permission from the County Manager.

Mr. Canup mentioned that there are times that law enforcement destroys evidence at the landfill and Commissioner Sides said he did not wish to “tie the hands of the Sheriff’s Department” and that he realized they are “100% responsible.” Commissioner Sides said the proposed text amendment was specifically for anyone else shooting at the landfill.

Commissioner Blount asked if the Turkey Vultures were a protected species and Mr. Canup said yes. Mr. Canup confirmed that the County must obtain permits from the USDA in order to shoot the species.

Commissioner Blount asked if the County would be allowed to kill all of the Turkey Vultures if killing a few did not solve the problem? Mr. Canup said he felt sure that Staff would not be allowed to kill “all of them but they may allow us to kill a few more.” Mr. Canup said the conversation did not get that far.

Commissioner Blount stressed that Staff should make sure all necessary permits are obtained.

Commissioner Sides moved to change the wording of Section 19-46(f) “unless authorized in writing by the County Manager” and also to set the public hearing for the text amendment. The motion was seconded by Commissioner Mitchell and passed unanimously (4-0).

## **PLANNING BOARD RECOMMENDATIONS FOR PROPOSED GUN ORDINANCE**

Chairman Chamberlain said the Planning Board had sent the issue for a proposed gun ordinance to a committee for review. The committee had responded with a suggested “to make no recommendation.” Chairman Chamberlain said the Planning Board had also reached a decision to make no recommendation as it believed the source of the issue should be treated as a civil matter and that it did not see any reason to regulate the discharging of firearms.

Commissioner Blount said the Board had received numerous emails and contacts on the issue and that most of those had stressed that there are existing laws on the books that would resolve an issue of this type. Commissioner Blount asked County Attorney Jay Dees if there were existing ordinances that could be used to control this type of discharge of firearms?

Mr. Dees discussed criminal statutes that dealt with firearms and where there must be property or bodily damage, or where the property was occupied. Mr. Dees said the general use of firearms is not prohibited.

Commissioner Blount gave an example of a shooting within residential subdivision and Mr. Dees said there are some negligent discharge issues but theoretically the shooting could take place as given in the example by Commissioner Blount.

Commissioner Sides said he had received numerous calls on the proposed gun ordinance as well as calls for barking dogs, loud noise and speeding traffic. Commissioner Sides said he supported property rights and gun rights. Commissioner Sides said he believed “we live in a free society; we’ve had people who have died for us to have the rights that we have.” Commissioner Sides said he was concerned about each issue and that perhaps the County should consider a Nuisance Ordinance that would govern the items that he had mentioned. Commissioner Sides said the Sheriff’s Department must prioritize its calls. Commissioner Sides said he was unsure as to the answer for the issue and that he did not want to pass 4 different laws to address each problem. Commissioner Sides said, “There is no law being broken and I just can’t, myself, vote to pass a law against somebody being able to shoot out in the county.”

Commissioner Sides moved that the Board take no action. The motion was seconded by Chairman Chamberlain.

Commissioner Mitchell referred to people smoking in public and that it had been claimed as a right for years. Commissioner Mitchell said over time the right to smoke in public has been taken away. Commissioner Mitchell said he would not support an ordinance forbidding the discharging of firearms in the county “at the moment.” Commissioner Mitchell said he hoped the owners of firearms would take it to heed that people were growing intolerant of the aggravation of flying bullets and that they were demanding the Board to do something about it. Commissioner Mitchell said he would consider the issue when the Board had a proposed ordinance that would take care of numerous issues as

suggested by Commissioner Sides. Commissioner Mitchell said citizens must not continue to rely on the fact that a particular right will always exist. Commissioner Mitchell pointed out that citizens must use “sense” in “what we do and how we act towards our neighbors.”

Commissioner Blount said the discharge of firearms does take place in an unsafe manner too close to other people and into occupied dwellings. Commissioner Blount said he personally owns and enjoys shooting firearms. Commissioner Blount felt a simple ordinance spelling out limitations for firing within a certain proximity to a house would be an action the Board could take to resolve the problem. Commissioner Blount said he would drop the issue at this point and hope the Board would do something in the future.

Upon being put to a vote, the motion on the floor passed 3-1 with Commissioner Blount dissenting.

Chairman Chamberlain mentioned that these types of issues would be reviewed in the future in a land use planning process.

**CONSIDER DECLARING PAC-MAC/INTERNATIONAL KNUCKLEBOOM  
LOADER AS SURPLUS / BILL COWAN /CONSIDER OFFERS TO PURCHASE  
PAC-MAC/INTERNATIONAL KNUCKLEBOOM LOADER**

Interim County Manager William Cowan said the County had purchased a Knuckleboom truck in 2002. Mr. Cowan said the County had received inquiries from Lincoln County and Carolina Environmental Systems offering to purchase the truck.

Mr. Cowan discussed the General Statutes regarding the sell of the truck and he recommended entering negotiations with Lincoln County to allow them to purchase the truck for the price bid by Carolina Environmental Systems (\$56,686.00).

In response to a query from Commissioner Mitchell, Mr. Cowan said the truck had been purchased during the 2002 ice storm and that the County currently has no need for this type of truck in inventory.

Mr. Cowan confirmed to Commissioner Sides that Lincoln County had agreed to the price.

Commissioner Sides moved, Commissioner Mitchell seconded and the vote to sell the truck to Lincoln County at the stated price of \$56,686 passed unanimously (4-0).

(Please note that the Resolution declaring the truck as surplus was approved at the end of the discussion regarding the contract with Eastern Aviation Fuels).

**SAFETY PRESERVATION PROGRAM FOR ROWAN COUNTY AIRPORT**

Interim County Manager William Cowan discussed the contract with the Department of Transportation (DOT), which allows them to provide maintenance at the airport. Mr. Cowan recommended approval.

Commissioner Sides questioned paragraph 3 on page 2 and said there should be consideration for scheduling by both parties.

Commissioner Sides also referred to paragraph 8 on page 2 and he expressed concern that no one “attached to the airport has any input” on the design, scope of work, materials to be used and methods of accomplishing this safety improvement project. Commissioner Blount pointed out, “they’re paying for it.”

Chairman Chamberlain added that much of the funds spent at the airport had come from federal grants and they “do have a dog in the fight.” Chairman Chamberlain referred back to paragraph 3 and expressed concern that the DOT would show up and “shut the airport down.” Chairman Chamberlain felt there should be coordination of scheduling.

Commissioner Blount said his past experience is that the DOT gives ample notice ahead of time and that information is also posted on frequencies to keep pilots informed. Commissioner Blount said in his experience there had never been a problem in working with the state on the maintenance at the airport.

Commissioner Blount moved, Commissioner Mitchell seconded and the vote to approve the contract as presented passed unanimously (4-0).

**AIRPORT ISSUES: DISCUSSION ON PROPOSED MAINTENANCE HANGAR AT ROWAN COUNTY AIRPORT & CONSIDER APPROVAL OF CONTRACT WITH EASTERN AVIATION FUELS OF NC**

Interim County Manager William Cowan said the Capital Improvement Plan scheduled construction of a new maintenance hangar at the airport in October of 2005. Mr. Cowan requested direction from the Board as to whether to proceed with the issue.

Commissioner Sides was of the opinion that the maintenance hangar was needed but said he would like to see this expenditure considered at the Board’s budget retreat. Commissioner Sides said the final audit figures from the 2004-05 budget year had not been received and that the audit should provide a better picture of the county’s finances. Commissioner Sides anticipated the audit should be received by the end of January.

Commissioners Sides moved, Commissioner Blount seconded and the vote to delay the issue to the budget retreat passed unanimously (4-0).

Mr. Cowan explained that several months into the new fiscal year the Board had requested proposals for a fuel provider for the airport. Mr. Cowan said Eastern Aviation Fuels was the low bidder and that the requirements put forth in Addendum A had been completed. Mr. Cowan recommended approval.

Commissioner Blount moved for approval and Commissioner Mitchell seconded the motion.

In response to a query from Commissioner Sides regarding paragraph 2 of the Addendum, Finance Director Leslie Heidrick explained that Staff had requested the wording to include and/or so that the County was not locked in and could choose the best price.

Upon being put to a vote, the motion on the floor passed unanimously (4-0).

At this point Mr. Cowan said he had failed to request the Board's approval of the Resolution to enter the Knuckleboom truck as surplus.

Commissioner Blount moved, Commissioner Sides seconded and the vote to adopt the Resolution as presented passed unanimously (4-0).

### **BOARD APPOINTMENTS**

#### **Rowan/Kannapolis ABC Board**

Commissioner Mitchell nominated Ken Argo. The nomination was seconded by Commissioner Blount and passed 3-1 with Commissioner Sides dissenting.

#### **Town of Rockwell Planning Board**

Commissioner Mitchell nominated Elizabeth Boltz and the nomination carried unanimously (4-0).

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

Commissioner Sides moved, Commissioner Blount seconded and the vote to accept the resignation of Joe Roberts passed unanimously.

Commissioner Sides said he could not vote in good conscience for anyone to serve on the ABC Board. Commissioner Sides referred to an earlier discussion regarding irresponsibility and he said there are more people killed on the highways by drunk drivers. Commissioner Sides said that his convictions would not allow him to vote for someone to serve on the ABC Board.

### **PUBLIC COMMENT PERIOD**

Chairman Chamberlain opened the Public Comment Period to entertain citizen comments and with no citizens wishing to address the Board, Chairman Chamberlain closed the Public Comment Period.

**ADJOURNMENT**

Commissioner Mitchell moved, Commissioner Blount seconded and the vote to adjourn the meeting at 8:37 pm passed unanimously (4-0).

Respectfully Submitted,

Carolyn Athey  
Clerk to the Board