

**MINUTES OF THE MEETING OF THE
ROWAN COUNTY BOARD OF COMMISSIONERS
April 17, 2006 – 7:00 PM
J. NEWTON COHEN, SR. ROOM, ADMINISTRATION BUILDING**

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

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

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

Chairman Chamberlain announced that Commissioner Tadlock had gone to Maryland for medical reasons and also that Finance Director Leslie Heidrick was unable to attend the meeting due to illness.

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

APPROVAL OF THE AGENDA

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

APPROVAL OF THE MINUTES

Commissioner Blount moved, Commissioner Mitchell seconded and the vote to approve the minutes of the April 3, 2006 meeting carried unanimously (4-0).

CONSIDERATION OF THE CONSENT AGENDA

Chairman Chamberlain removed Item D from the Consent Agenda for discussion. The issue was added as agenda Item 2a.

Commissioner Sides referred to Item C and said he had found some minor language errors in the lease agreement and by consensus the Board agreed for Commissioner Sides to provide the Clerk with the corrections that should be incorporated in the contract.

The Consent Agenda consisted of the following items:

- A. Approval of Acceptance of \$7,350 from Susan G. Komen Foundation for Health Department
- B. Approval of Acceptance of \$2,000 Healthy Carolinians Grant
- C. Approval of Lease Agreement with William V. Bost for Rowan County Probation Office Space
- D. Authorization for County Manager to Sign Rehabilitation Contracts and Related Contracts for the 2005 Community Development Block Grant Program
- E. Subdivision Guarantee – Letter of Credit for Proposed Utility Sunset Pointe (S 08-04)
- F. Set Public Hearing for May 1, 2006 for Majority Petition for Chub’s Trail
- G. Set Public Hearing for May 1, 2006 for Special Consideration of Road Name Request for Dappler Lane
- H. Approval of Revised Criminal Justice Partnership Application for Continuation of Implementation Funding

Commissioner Sides moved, Commissioner Mitchell seconded and the vote for approval of the Consent Agenda passed unanimously (4-0) (with Item D pulled for discussion).

CONSENT AGENDA ITEM D - AUTHORIZATION FOR COUNTY MANAGER TO SIGN REHABILITATION CONTRACTS AND RELATED CONTRACTS FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT

Commissioner Sides said he did not have any comments pertaining to Item D but that he had requested that the issue be pulled for a vote.

Commissioner Mitchell moved, Commissioner Blount seconded and the vote to approve the Resolution passed 3-1 with Commissioner Sides dissenting.

PUBLIC HEARING FOR CONSIDERATION OF MAJORITY PETITION FOR RABBIT PATCH DRIVE

Fredda Greer of the Rowan County Planning Department provided the information pertaining to the Majority Petition for the proposed road name of Rabbit Patch Drive. Ms. Greer reported that 2 of the 3 property owners had signed the petition.

Staff recommended approval of the proposed road name.

Chairman Chamberlain opened the public hearing to entertain citizen input for the proposed road name of Rabbit Patch Drive. With no one wishing to address the Board, Chairman Chamberlain closed the public hearing.

Commissioner Sides moved, Commissioner Mitchell seconded and the vote for approval of Rabbit Patch Drive passed unanimously (4-0).

PUBLIC HEARING FOR CONSIDERATION OF MAJORITY PETITION FOR GREATFUL DRIVE

Fredda Greer of the Rowan County Planning Department presented the information pertaining to the Majority Petition for the proposed road name of Greatful Drive. Ms. Greer reported that Greatful Drive runs off of Rabbit Patch Drive, which was just approved by the Board. Ms. Greer said 2 of the 3 property owners had signed the petition.

Commissioner Mitchell noted the odd spelling of “greatful” on the petition.

Chairman Chamberlain opened the public hearing to entertain citizen input for the proposed road name of Greatful Drive. With no one wishing to address the Board, Chairman Chamberlain closed the public hearing.

Commissioner Blount moved for approval of Greatful Drive. The motion was seconded by Commissioner Mitchell and passed unanimously (4-0).

PUBLIC HEARING FOR CONSIDERATION OF UNANIMOUS PETITION FOR LOAFERS GLORY LANE

Fredda Greer of the Rowan County Planning Department provided the information pertaining to the Unanimous Petition for Loafers Glory Lane. Ms. Greer said there were 3 property owners along the road and all 3 had signed the petition.

Staff recommended approval of the proposed road name.

Chairman Chamberlain opened the public hearing to entertain citizen input for the proposed road name of Loafers Glory Lane. With no one wishing to address the Board, Chairman Chamberlain closed the public hearing.

Commissioner Mitchell moved for approval of Loafers Glory Lane. Commissioner Blount seconded and the motion carried unanimously (4-0).

PUBLIC HEARING FOR CONSIDERATION OF UNANIMOUS PETITION FOR WINTERBERRY PLACE

Fredda Greer of the Rowan County Planning Department presented the information pertaining to the Unanimous Petition for Winterberry Place.

Ms. Greer said Staff noted the road needed to be named when one of the property owners had sought a zoning permit. Ms. Greer said all 3 property owners along the road had signed the petition.

Staff recommended approval of the proposed road name.

Chairman Chamberlain opened the public hearing to entertain citizen input for the proposed road name of Winterberry Place. With no one wishing to address the Board, Chairman Chamberlain closed the public hearing.

Commissioner Sides moved, Commissioner Mitchell seconded and the vote for approval of the proposed road name of Winterberry Place passed unanimously (4-0).

QUASI-JUDICIAL HEARING FOR PCUR-01-06

Chairman Chamberlain read the Chairman's Speech (Exhibit A) and declared the public hearing for PCUR 01-06 to be in session. Chairman Chamberlain said the hearing would focus on an application submitted by Gwen Chubirko for property located along the 7100 block of Hwy 152 East in the Gold Hill Township. The application is for a parallel conditional use rezoning of 0.53 acres of Tax Parcel 360-162 from Rural Agricultural (RA) to Commercial, Business, Industrial (CBI) with an accompanying conditional use district (CUD) to allow for various retail and service uses.

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

John Hanes of the Rowan County Planning Department, 402 North Main Street, provided the Staff Report (Exhibit B). Mr. Hanes referred to the Checklist (Exhibit C) in the agenda packet and suggested that the Board follow the Checklist (Exhibit C) as he reviewed the Staff Report (Exhibit B).

Mr. Hanes explained that F&M Bank had assumed ownership of the property after foreclosure on Tax Parcel 360-162. Mr. Hanes said the calculated acreage of the tract is .53 acres. Mr. Hanes said there is currently a structure on the site, which according to the County Assessor's Office is listed as a retail store. Mr. Hanes said Genesis Realty of Kannapolis is marketing the property, which is zoned Rural Agriculture (RA).

Mr. Hanes said Gwen Chubirko of Genesis Realty was seeking a parallel conditional use rezoning (PCUR) to market the property for uses that would allow a business to operate on the site.

Mr. Hanes used a power point presentation (Exhibit D) to describe the site, surrounding area and the proposed list of potential uses for the site. Mr. Hanes said that all of the potential uses were allowed in the RA district, provided that the owner live on or adjacent to the site and have 35' of state road frontage. Mr.

Hanes said 9 of the uses were allowed with special requirements in the Neighborhood Business District (NBD) and all 11 uses are committed by right in the Commercial, Business, Industrial (CBI) district.

Mr. Hanes reviewed the Zoning Criteria listed in the Staff Report (Exhibit B) as follows:

1. *Relationship and conformity with any plans or policies.* Mr. Hanes said the site could not be rezoned to NBD due to the fact that the lot currently exceeds the impervious surface coverage. Mr. Hanes said almost the entire lot is paved with asphalt.
2. *Consistency with the requested zoning district's purpose and intent.* Mr. Hanes said typically the CBI zone allows for a wide range of commercial, business and light industrial activities, which provide goods and services. Mr. Hanes said Hwy 152 is designated as a major collector in the 2000 Rowan County Thoroughfare Plan.
3. *Compatibility of all uses within the proposed district classification with other properties and conditions in the vicinity.* Mr. Hanes said the nearest CBI zoned parcel is Bost Argo and Bost Tune Up & Brake Service, which is located 0.40 miles west of the property on Hwy 152. Mr. Hanes said Sifford Oil and the Exxon Station are approximately 0.8 miles from the site. Mr. Hanes said Windsor Homeplace, a subdivision with 19 lots is located across NC 152 from the site. Mr. Hanes said there is a mix of mobile homes and single-family units with lots built upon with a current assessed value including land and improvements of \$104,148.

Commissioner Mitchell questioned the existing commercial development in the Town of Rockwell's extraterritorial jurisdiction and Mr. Hanes said he believed there were no business zones adjacent in that area.

Mr. Hanes used the power point presentation (Exhibit D) as he continued to show the site and the surrounding areas.

Mr. Hanes finished reviewing the Zoning Criteria listed in the Staff Report (Exhibit B):

4. Potential impact on facilities such as roads, utilities and schools. Mr. Hanes said NC 152 is identified as a major collector in the Rowan County Thoroughfare Plan with a design capacity of 9,500 vehicles per day. Mr. Hanes said the most recent traffic count available was taken in 2002 showing AADT of 6,300 near the intersection with Faith Road. Staff estimated the highest traffic generators would be a daycare facility or beauty salon.

Mr. Hanes highlighted the following General Conditional Use Criteria listed in the Staff Report (Exhibit B):

- a. *Adequate transportation access to the site exists.* Mr. Hanes said the site has 2 entrances off of NC 152 with 621 feet of road frontage along the highway.
- b. *The use will not significantly detract from the character of the surrounding area.* Mr. Hanes explained that the site had existed for many years as a auto sales lot and there are a few other CBI zones along NC 152.
- c. *Hazardous safety conditions will not result.*
- d. *The use will not generate significant noise, odor, glare or dust.* Mr. Hanes said almost the entire lot is paved.
- e. *Excessive traffic or parking problems will not result.* Mr. Hanes said adequate space exists for the parking.
- f. *The use will not create significant visual impacts for adjoining properties or passersby.* Mr. Hanes said there is a 6' chainlink fence that screens the entire property. Mr. Hanes said the site plan also includes no changes to the property other than what currently exists onsite.

Mr. Hanes reviewed the Staff Comments listed in the Staff Report (Exhibit B). Mr. Hanes said all 11 uses are allowed in the RA district as special requirements and 9 are allowed in the NB district. Mr. Hanes said 2 of the proposed uses are not allowed in the NB district. Mr. Hanes said typically, rezonings involving parallel conditional use districts (CUD) are for firm development proposals and are not for speculative purposes. Mr. Hanes said another issue to be considered was issuance of a special use permit, provided that the following 3 requirements can be met:

1. There is no increase in the total amount of area devoted to the nonconforming use;
2. There is no greater nonconformity with respect to dimensional restrictions such as setback requirements, height limitations, or density requirements or other requirements such as parking, loading and landscape requirements; and
3. There is no significant adverse impact on surrounding properties or public health or safety including but not limited to no increase in the level of noise, dust, odor, glare or other nuisances.

Mr. Hanes said another option would be occupancy or sale of this tract within 360 days of the previous business by another tenant with a similar business would be allowed as continuance of the non-conforming situation.

Mr. Hanes discussed the Staff Recommendation listed in the Staff Report (Exhibit B). Mr. Hanes said Planning Staff does not support the request due to the relatively small district size of less than 1 acre and the speculative nature of the request. Staff was of the opinion that continuance as a non-conforming use or a special use permit were better options.

Mr. Hanes said if the Planning Board sends a favorable approval of the request to the Board of Commissioners, Staff suggests the following condition:

1. Replace missing slats along the east side of the metal fence so that it conforms to the screening requirements of the zoning ordinance.

Mr. Hanes reported that 2 people spoke at the March 27, 2006 Planning Board Meeting and that the Planning Board voted 5-4 to forward a favorable recommendation for the rezoning request from RA to CBI(CUD).

Commissioner Mitchell asked how long the building had not been in use and Gwen Chubirko, the applicant, responded approximately 1 year. Ms. Chubirko said it had taken a long time to go through the foreclosure procedures.

Commissioner Blount asked Mr. Hanes if he felt this was illegal spot zoning and Mr. Hanes said yes, due to the small size of the tract.

Mr. Hanes confirmed to Commissioner Mitchell that a way around spot zoning would be through a special use permit.

The applicant, Gwen Chubirko, said she had done a lot of foreclosures but never any like the current situation. Ms. Chubirko said she had informed F&M Bank that they would not get much value out of the property if it were not rezoned. Ms. Chubirko explained that it usually takes several months to go through the legal aspects of foreclosure proceedings and "in the meantime it could be used as grandfathered in because of that." Ms. Chubirko said the property had always been a business since about 1950. Ms. Chubirko said there is no way to use the site as a home since it was a ½-acre lot with 600' of road frontage. Ms. Chubirko said the lot was not wide enough for placement of a home. Ms. Chubirko said the site would not have any taxable for resale value unless conditions are met and that it could be used for something other than residential. Ms. Chubirko felt that a business operating on the site would increase the value compared to some of the homes in the area that are not in good shape. Ms. Chubirko said the site had been used as a car dealership, repair shop, etc.

Commissioner Mitchell said Staff had indicated that the zoning as requested would be illegal and he asked Ms. Chubirko if she had any problem with the option of a special use permit. Ms. Chubirko responded no.

Chairman Chamberlain asked Planning Manager Ed Muire how long Ms. Chubirko would have to wait to do "anything else" if the Board turned down the request for the rezoning. Mr. Muire responded that there is no definitive timeline, that Ms. Chubirko could withdraw the application.

Chairman Chamberlain opened the public hearing to entertain citizen input regarding PCUR 01-06. The following citizens address the Board:

1. Rebecca House said she lives across the street from the site. Ms. House said she had talked to the Planning Board and that she had "talked across the street." Ms. House said it had been 1-½ years since a business had

- been on the site. Ms. House said she had also talked to “Dennis” who lives next door. Ms. House said there is a septic tank there but that it is underground. Ms. House said there is no water there. Ms. House said she had a letter (Exhibit E) from the “lady that takes care of old people right next door and she could not come.” (Ms. House provided the Clerk with the letter, which was signed by Joyce Swinson). Ms. House said the water is across the road to Ms. Swinson’s house and that she would not let them use the water. Ms. House said Ms. Swinson had allowed Dennis to use her well and the line is run under the road to that facility. Ms. House said Ms. Swinson had said she would not let another business use the well. Ms. House said Ms. Swinson had charged Dennis \$15/month for water. Ms. House said Dennis had told her there is a septic tank that was put in years ago and he covered it with asphalt.
2. Wesley Lear said he had moved onto his property along NC 152 after the business had closed. Mr. Lear said the surrounding area is wooded. Mr. Lear said the small parcel has long road frontage but is not very deep. Mr. Lear said any business that locates on the site would have to be an in/out type business as there is nowhere to park. Mr. Lear said an increase in traffic would make it more difficult to get in/out of the driveway where he lives. Mr. Lear said he disapproved of spot zoning and would be more favorable to a special use permit for use of the property.

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

Mr. Muire said he would like to provide a Staff wrap-up regarding the request. Mr. Muire said Mr. Hanes had pointed out several times that parallel conditional use districts are voluntary procedures intended for firm development proposals and is neither intended nor suited for securing early zoning for tentative uses. Mr. Muire said the presentation and the application shows there are 11 proposed uses. Mr. Muire said Staff was not sure what would go on the property. Mr. Muire said the Board had previously discussed using the County’s zoning document as its comprehensive plan. Mr. Muire continued by saying the text within the zoning document seemed to cast doubt on the application from the standpoint of it being intended for firm development proposals, not for early zoning for tentative uses.

Mr. Muire said as pointed out by Mr. Hanes, there are 3 options. Mr. Muire said if the application were to be denied, he would hope the Board didn’t think it could deny the application in hopes that the Board could approve it with one of the other methods. Mr. Muire said each one of the methods has specifics that the applicant must show the Board. Mr. Muire said in 2 cases regarding non-conforming uses, he felt it imperative that applicant come back to the Board with a specific tenant. Mr. Muire was of the opinion that the site’s physical limitations won’t allow commercial status. Mr. Muire said the relatively small size of the tract “doesn’t lend itself to much going on there.”

Mr. Muire said there are 2 non-conforming use processes. Mr. Muire said it wouldn't be out of the question for the applicant, or someone, to remove a lot of the asphalt on the site to come into compliance with the 65% impervious coverage. Mr. Muire said he felt spot zoning is a real concern in this issue.

Commissioner Blount moved to deny the request for PCUR 01-06. The motion was seconded by Commissioner Mitchell.

Chairman Chamberlain asked if the Board would be better off to deny the request and allow the applicant to come back with a request for one of the items mentioned. Mr. Muire responded that from the standpoint of the non-conforming use process, the Board could deny the application but from the standpoint of NB district, she would need to wait 1 year before the proposal came back before the Board, unless there was a land use plan or utility plan that came into effect that changed the scope of what the County sees for that corridor.

Chairman Chamberlain asked Ms. Chubirko if she would like to withdraw the request and she said yes.

Commissioner Blount withdrew his motion.

QUASI-JUDICIAL HEARING FOR CUP 03-06

Chairman Chamberlain read the Chairman's Speech (Exhibit A) and declared the public hearing for CUP 03-06 to be in session. Chairman Chamberlain said the hearing would focus on an application submitted by Pauline Harding for property located along the 100 block of Kittey Lane in the China Grove Township. The application is for a conditional use permit to allow a family subdivision in a CBI zoning district on a 1.90-acre parcel referenced as Tax Parcel 482-197.

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

John Hanes of the Rowan County Planning Department, 402 North Main Street, provided the Staff Report (Exhibit B). Mr. Hanes said with the adoption of countywide zoning in January of 1998, the area in question was zoned Commercial, Business, Industrial (CBI) due to its proximity to I-85 and Hwy 29. Mr. Hanes said there had been concerns that improper development of residential subdivisions would interfere with the economic development efforts and the Board of Commissioners had adopted an amendment to the zoning ordinance on 10-18-99 making any subdivision of property in the CBI district a conditional use.

Mr. Hanes reported that the request was from Pauline Harding who owns a 1.9-acre tract located at 145 Kittey Lane. Mr. Hanes explained that Ms. Harding was requesting a conditional use permit for the purpose of creating a family subdivision on property she owns identified as Tax Map 482 Parcel 197. Mr.

Hanes said Ms. Harding intended to convey a one-half acre lot from the existing parcel to her sister, Teresa Ramseur.

Mr. Hanes reviewed the Required Findings listed in the Staff Report (Exhibit B) as follows:

1. The development of the property in accordance with the proposed conditions will not materially endanger the public health or safety. Mr. Hanes said there is a 20' right of way, Ramseur Drive, located off Corriher Gravel Road. Mr. Hanes said from Ramseur Drive there is another 20' right of way, Kittey Lane.
2. That the development of the property in accordance with the proposed conditions will not substantially injure the value of adjoining or abutting property, or that the development is a public necessity. Mr. Hanes said subdivision of the property will not disturb the values of surrounding properties.
3. That the location and character of the development in accordance with the proposed conditions will be in general harmony with the area in which it is located and in general conformity with any adopted county plans. Mr. Hanes said the area had a minimum lot size of 20,000 square feet since it was outside of any watershed. Mr. Hanes said the "1/2 acre is over this."

Mr. Hanes highlighted the following Evaluation Criteria listed in the Staff Report (Exhibit B):

- a. Adequate transportation access to the site exists. Mr. Hanes said access exists via Ramseur Drive and Kittey Lane.
- b. The use will not significantly detract from the character of the surrounding area. Not applicable.
- c. Hazardous safety conditions will not result. Not applicable.
- d. The use will not generate significant noise, odor, glare or dust. Not applicable.
- e. Excessive traffic or parking problems will not result. Not applicable.
- g. The use will not create significant visual impacts for adjoining properties or passersby. The property is in an area where other residential structures are located.

Mr. Hanes said Staff recommends approval for the proposed family subdivision for the creation of a lot in the CBI zoning district.

Chairman Chamberlain opened the public hearing to entertain citizen comments regarding CUP 03-06.

Pauline Harding, the applicant, said she and her daughter own the land around her and she asked who she could sell her property to. Mr. Hanes explained that the deed could only be conveyed to an immediate family member since there was no state road frontage on the property. Mr. Hanes explained that immediate family members consisted of mother, father, son, daughter, brother or sister.

Ms. Harding said she did not like the explanation and that since she paid taxes she should be able to do with the land what she wished. Ms. Harding asked if she could give the land to her sister and Chairman Chamberlain responded yes.

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

Commissioner Mitchell moved, Commissioner Sides seconded and the vote for approval of CUP 03-06 passed unanimously (4-0).

Chairman Chamberlain called for short break at 7:50 pm.

Chairman Chamberlain reconvened the meeting at 8:00 pm.

PUBLIC HEARING FOR PE-01-06 FOR PERMIT TO EXCEED NOISE STANDARDS FROM RELAY FOR LIFE

Rowan County Planning Manager Ed Muire presented the request for the Permit to Exceed Noise Standards from Relay for Life. Mr. Muire said the event was the 8th annual fundraising event for Relay for Life and Staff recommended approval.

Chairman Chamberlain opened the public hearing to entertain citizen input regarding the request for PE-01-06. With no one coming forward to address the Board, Chairman Chamberlain closed the public hearing.

Commissioner Mitchell moved for approval of PE-01-06. The motion was seconded by Commissioner Blount and passed unanimously (4-0).

CONSIDERATION OF TOBACCO USE POLICY FOR HEALTH DEPARTMENT AND GROUNDS

Health Department Director Leonard Wood reviewed the "Tobacco Use" policy, which was adopted by the Rowan County Board of Health at their January 10, 2006 meeting. Mr. Wood said the Health Board was requesting that the Commissioners support approval of a ban for the use of tobacco on the grounds at the Health Department. Mr. Wood explained that the primary reason for the request was a health issue and he named several hospitals as well as the Rowan-Salisbury Schools (RSS) that had also adopted smoke-free policies.

Commissioner Mitchell, who serves as a liaison on the Board of Health said he would like to applaud the Health Board for its efforts. Commissioner Mitchell said he personally preferred to see a policy that would be implemented over a period of time to allow people time to adjust to the concept. Commissioner Mitchell said in working with RSS, he understands the difficulties faced in keeping parents and students from smoking at athletic events. Commissioner Mitchell read from G.S. 143-599, Section 1 (5) and said he prefers to see this as an amendment to the policy. Commissioner Mitchell felt the amendment would accomplish the Health

Department's goal of getting the smoke away from the front door. Commissioner Mitchell said he would also like to see the Health Department take up some of the cessation policies to encourage employees to stop smoking.

Commissioner Mitchell moved the policy with the condition that it only eliminate smoking within 50' of the entrance to the Health Department.

Commissioner Blount questioned the enforcement of the policy. Commissioner Mitchell said signs could be posted that would permit smoking in designated areas and that ashtrays could be moved towards the end of the building. Commissioner Mitchell said the information given at the Health Board Meeting was that the ashtrays would be moved 50' from the entrance. Commissioner Mitchell clarified that "it is from the entrance as far as my motion goes." Commissioner Mitchell said the Health Department's side entrance was also included.

Mr. Wood said Mr. Ward of Daymark Recovery Services, which shares the Health Department building, was supportive of using the same language as approved by the Commissioners.

Chairman Chamberlain seconded the motion.

Commissioner Blount said he was comfortable to outlaw smoking completely but would go with the majority of the Board.

Commissioner Sides said he was comfortable to vote against the use of tobacco on the entire property.

Chairman Chamberlain said smoking cigarettes was a legal activity and if the Board was going to ban tobacco use from one county property it should be banned from all county properties.

Commissioner Blount said he did not wish to see the Board have a tie vote and he asked Chairman Chamberlain where he stood pertaining to his vote on the issue. Chairman Chamberlain responded that he agreed with Commissioner Mitchell.

In response to a query from Commissioner Sides, Commissioner Mitchell said if no enforcement problems had been encountered then he would have no problem approving the policy for the entire property. Commissioner Mitchell said if the RSS policy was any indication of what would be experienced, he anticipated a great many enforcement issues with the policy.

Mr. Wood requested clarification and asked if the motion was for 50' from the entrances of the building or 50' from the building itself. Commissioner Mitchell said 50' from the 2 entrances to the Health Department.

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

CONSIDER PURCHASE OF PROPERTY FROM ROWAN PUBLIC LIBRARY FOUNDATION

Phil Barton, Rowan Public Library (RPL) Director, distributed a letter to the Board from Chip Short, a member of the Library Foundation Board. Mr. Barton explained that Mr. Short had been out of the country and was unable to attend the Commission Meeting. Mr. Barton explained that the Library Foundation Board wished to divest itself of the building located adjacent to county property located at 102 North Central Avenue. Mr. Barton said the offer was being extended to the county first. The current tax value is \$57,206 and the Foundation would sell the building to the county for one-half of that value. The Foundation also offered another 60 to 90 day extension for the Board to consider the offer.

After a brief discussion regarding potential uses for the building, the Board by consensus opted to take an additional 90 days for consideration of the purchase.

DISCUSSION PERTAINING TO T-HANGAR LEASES

County Attorney Jay Dees said the Board had previously approved the t-hangar lease in the agenda packets. Mr. Dees asked the Board if it wished to modify the lease term and the buy back provision.

Commissioner Sides moved to bring the matter back up for reconsideration. Commissioner Mitchell seconded and the motion passed unanimously (4-0).

Mr. Dees asked the Board to also review paragraph 15 regarding default provisions.

Commissioner Sides referred to paragraph 2, Ground Lease/Lease Term, item (a) which states the lease term shall be 25 years with continuing (5) year options. Commissioner Sides moved to change the language "with continuing 1 year options to renew with consent of Lessor."

Commissioner Sides referred to the last sentence in paragraph 2, Ground Lease/Lease Term, item (a). Commissioner Sides read from the last sentence and moved to change the language to "depreciated value of the hangar based on the original purchase price no later than 90 days after the term expires."

Commissioner Sides continued by suggesting changes in paragraph 15 of the lease pertaining to Default. Commissioner Sides moved that the second to last statement of the referenced paragraph should read, "Lessor shall thereupon refund to Lessee the depreciated value of the hangar based on the original purchase price less any unpaid lease amounts." Commissioner Sides moved that the last sentence of the same paragraph have the words "and appraisal fees" deleted.

Commissioner Mitchell seconded the motion, which had been stated in 3 parts.

Commissioner Mitchell pointed out that the Lessee would be able to accrue the value of the hangar through the ability to use the county's land for a very low fee throughout the course of 25 years.

Commissioner Mitchell said he would like to see protection if the county were unable to lease the hangars for the original 25 year term, that the county would either move it and provide use of the hangar elsewhere on the property for the full 25 years, or pay back some amount for the lack of their being able to use the hangar for the full 25 year term.

Commissioner Sides responded that this was covered and Commissioner Blount pointed out that paragraph 3 states that the costs would be shared.

Commissioner Sides said he had no problem changing the paragraph to state that the county bears the full expense of moving the hangars. Commissioner Mitchell offered this change as an amendment to the motion. The amendment was seconded and passed unanimously (4-0).

Commissioner Blount said the Lessee was paying the full price of the hangar, plus 10%. Commissioner Blount said in his mind "that is their property; they should be the ones to accrue value on it if value accrues or lose value if value is lost." Commissioner Blount felt it was unfair for the Board to take that property right away from the Lessee at the end of the 25 years.

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

Chairman Chamberlain said the Board had technically only amended the contract and he opened the floor to entertain a motion to accept the lease as whole. Commissioner Mitchell moved, Commissioner Sides seconded and the vote to accept the lease as whole passed 3-1 with Commissioner Blount dissenting.

Chairman Chamberlain charged the Airport Committee (consisting of Commissioners Mitchell and Blount, County Manager William Cowan, County Attorney Jay Dees and Director of Administration Ken Deal) to hold another meeting "posthaste" and bring recommendations back to the Board for a Steering Committee that would take a closer look at issues regarding the airport.

BUDGET AMENDMENTS

County Manager William Cowan said he was prepared to answer any questions the Board might have regarding the budget amendments.

Commissioner Mitchell questioned the budget amendment for worker's compensation claims. Commissioner Mitchell asked 1) How large is this budget normally, and 2) Can the County expect some reimbursement from the carrier?

Ken Deal, Director of Administration, said the County normally has approximately \$360,000 budgeted for claims only throughout the year. Mr. Deal said the County had experienced some "major claims" in the past several years, including one for approximately \$659,000. Mr. Deal said the stop/loss is \$250,000. Mr. Deal said all monies are paid out and the insurance company then reimburses the County. Mr. Deal anticipated a reimbursement of approximately \$400,000 for the case he had specifically mentioned. Mr. Deal said the budget amendment for the \$177,000 increase would be paid out but that the County would get it back.

Commissioner Sides moved, Commissioner Mitchell seconded and the vote for approval of the budget amendments passed unanimously (4-0).

BOARD APPOINTMENTS

TOWN OF ROCKWELL PLANNING BOARD

At the April 3, 2006 meeting, the Board deferred a request by the Town of Rockwell to appoint Richard Terrell as an extra-territorial member of the Rockwell Planning Board until a board application could be submitted.

Mr. Terrell's appointment would fill a slot vacated by the resignation of Dr. Stephen Furr. According to the Deputy Clerk/Secretary to the Planning Board, the remainder of this term expires on February 28, 2007.

Commissioner Sides nominated Richard Terrell and the nomination passed unanimously (4-0).

INDUSTRIAL FACILITIES & POLLUTION CONTROL FINANCING AUTHORITY

Buddy Gettys has submitted an application to serve on this authority. There is one vacancy. The appointment would be for a 6-year term, expiring on March 31, 2012.

Commissioner Sides nominated Buddy Gettys and the nomination passed unanimously (4-0).

ROWAN COUNTY ZONING BOARD OF ADJUSTMENTS

The ZBA has a case scheduled for May 9, 2006 and there are currently 4 vacancies on this board.

The terms of service on the ZBA for Lois Elliott and David Collins expired March 31, 2006 and they have both submitted applications for reappointment. Jim Ogg and Mac Butner have also submitted applications for appointment. The terms would be for 3 years and would expire on March 31, 2009.

The Resolution adopted by the County Commissioners on June 7, 1999 (copy attached) limits individuals to (2) terms on the various boards and commissions. In order for Ms. Elliott and Mr. Collins to be reappointed, the Board would need to waive this rule.

Chairman Chamberlain informed the Board that ZBA member Ted James had passed away.

Chairman Chamberlain pointed out that ZBA applicant Mac Butner also served on the Planning Board. Chairman Chamberlain said it was not illegal for anyone to serve on both the ZBA and the Planning Board but that he personally did not think it was a good idea. Chairman Chamberlain felt that if Mr. Butner were willing to resign from the Planning Board then he would vote to support him for appointment to the ZBA.

Commissioner Sides said he had raised the same question pertaining to serving on both boards. Commissioner Sides said even though an individual is permitted to serve on both boards, he was inclined to agree with Chairman Chamberlain.

Commissioner Sides referred to the letter in the agenda packet from the Clerk to the ZBA and he moved to accept the recommendations with the removal of Mr. Butner even as the alternate. The motion was seconded by Commissioner Mitchell.

Chairman Chamberlain said he did not want anyone to think he was opposed to Mr. Butner. Chairman Chamberlain said he attends the Planning Board meetings and that he would hate to lose the expertise of Mr. Butner as a Planning Board member.

Commissioner Mitchell asked if the Board should first vote to waive the Resolution and Chairman Chamberlain responded yes.

Commissioner Mitchell moved to waive the rule for the purpose of allowing Ms. Elliott and Mr. Collins to be reappointed to the ZBA. Commissioner Sides seconded and the motion carried unanimously (4-0).

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

PUBLIC COMMENT PERIOD

Chairman Chamberlain opened the Public Comment Period and the following citizens addressed the Board:

- Tina Hall referred to the Closed Session agenda item, which stated the Board would receive an update from Attorney Anthony Fox regarding the internal investigation. Ms. Hall said the issue should not be considered as a personnel matter as the former County Manager was no longer an

employee of the County. Ms. Hall felt the public had a right to hear from Mr. Fox in Open Session since county funds were being used for the investigation. Ms. Hall said the issue was of great interest to the citizens and would be more appropriate for discussion in Open Session. Ms. Hall commented, "only on a rare decision should you go into Closed Session." Ms. Hall encouraged the Board to change its mind and hold the discussion in Open Session.

Chairman Chamberlain said the Board does not normally respond to citizens during the Public Comment Period but he asked County Attorney Jay Dees to reply as to why the Board would hold the discussion in Closed Session.

Mr. Dees said it had been very clear from the beginning that the investigation was a criminal investigation and is a personnel matter. Mr. Dees said personnel includes terminated employees, as well as the County Manager. Mr. Dees said the Board was clear from the outset that the investigation would be handled pursuant to what the law requires and what the law allows. Mr. Dees said the nature of the criminal investigation involved activities conducted while Mr. Russell was the County Manager. Mr. Dees said the definition of an employee/personnel matter does include terminated employees. Mr. Dees said this was the Board's initial position and nothing in his mind had changed.

Chairman Chamberlain said the Closed Session minutes would be made public when the investigation had ended and when the County Attorney had determined the minutes could be released.

Mr. Dees added that to some degree, the public records act restricts the Board from releasing some of the information without Mr. Russell's permission. Mr. Dees said the Board had intended from day one to release the results of the investigation as soon as practically possible.

CLOSED SESSION

Commissioner Sides moved at 8:51 pm for the Board to enter Closed Session pursuant to North Carolina General Statutes G.S. 143-318.11(a)(1) for the purpose of approving Closed Session Minutes to prevent the disclosure of information that is privileged or confidential, and G.S. 143-318.11(a)(7) regarding the criminal investigation of the former County Manager. Commissioner Mitchell seconded and the motion carried unanimously (4-0).

Chairman Chamberlain called for a short break before entering Closed Session.

The Board returned to Open Session at 9:44 pm.

Commissioner Mitchell moved to allow Attorney Anthony Fox to continue with the criminal investigation, with the next report coming to the Board of Commissioners

no later than June 19, 2006. The motion was seconded by Commissioner Sides and passed 3-1 with Commissioner Blount dissenting.

ADJOURNMENT

Commissioner Blount moved, Commissioner Mitchell seconded and the vote to adjourn at 9:45 pm passed unanimously.

Respectfully Submitted,

Carolyn Athey
Clerk to the Board