

**MINUTES OF THE MEETING OF THE
ROWAN COUNTY BOARD OF COMMISSIONERS
May 1, 2006 – 7:00 PM
J. NEWTON COHEN, SR. ROOM, ADMINISTRATION BUILDING**

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

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

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

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

ADDITIONS/DELETIONS TO THE AGENDA

- Commissioner Blount added a discussion pertaining to the Briggs Resources contract.
- County Manager William Cowan requested to add a discussion in order to receive clarification regarding the t-hangar lease approved at the April 17, 2006 Commission meeting.

Commissioner Blount moved, Commissioner Mitchell seconded and the vote to add both issues to the agenda passed unanimously.

Chairman Chamberlain added the Briggs Resources contract as agenda item #8a and the t-hangar lease as agenda item #8b.

APPROVAL OF THE AGENDA

Commissioner Mitchell moved, Commissioner Blount seconded and the vote for approval of the agenda passed unanimously.

APPROVAL OF THE MINUTES

Commissioner Blount moved, Commissioner Sides seconded and the vote to approve the minutes of the April 17, 2006 meeting passed unanimously.

1. CONSIDERATION OF THE CONSENT AGENDA

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

Chairman Chamberlain read the Proclamation Designating May 4, 2006 as National Day of Prayer in Rowan County.

The Consent Agenda consisted of the following items:

- A. Approval of Proclamation Designating May 4, 2006 as National Day of Prayer in Rowan County
- B. Approval of Proclamation for Law Enforcement Week (May 14-20, 2006)
- C. Approval of Proclamation to Establish May as Shield-a-Badge with Prayer Awareness Month
- D. Approval of Proclamation Recognizing May as Older Americans Month
- E. Approval of Proclamation for Senior Center Week
- F. Approval for Senior Services Department to Submit the Annual Application for Home & Community Care Block Grant (Continuation Application for FY 2007)
- G. Approval of Proclamation Designating May 14-20, 2006 as Emergency Medical Services Week
- H. Set Public Hearing for May 15, 2006 for Consideration of Majority Petition for Lighthouse Way
- I. Set Public Hearing for May 15, 2006 for Special Consideration of Apex Lane
- J. Set Public Hearing for May 15, 2006 for Consideration of Z-01-06

2. PUBLIC HEARING FOR CONSIDERATION OF MAJORITY PETITION FOR CHUB'S TRAIL

Fredda Greer of the Rowan County Planning Department presented the information for the proposed road name of Chub's Trail. Ms. Greer reported a petition had been submitted by Donald Barringer, which contained 2 out of 3 signatures. Staff recommended approval.

Ms. Greer reported that she had received a phone call from the 3rd property owner informing her of an agreement with Mr. Barringer. The caller said the agreement was that a third structure would not be put on the road. Ms. Greer said she had informed the property owner that this was a civil matter and that Staff would proceed with the road naming process.

Chairman Chamberlain opened the public hearing to entertain citizen input regarding the proposed road name of Chub's Trail. With no one wishing to address the Board, Chairman Chamberlain closed the public hearing.

Commissioner Sides moved, Commissioner Mitchell seconded and the vote to approve the proposed road name of Chub's Trail passed unanimously.

3. PUBLIC HEARING FOR SPECIAL CONSIDERATION OF ROAD NAME REQUEST FOR DAPPLER LANE

Fredda Greer of the Rowan County Planning Department presented the information for the proposed road name of Dappler Lane. Ms. Greer said property owners were notified and given the opportunity to provide input into naming the road in December 2005. Ms. Greer said that to date no completed petition had been submitted.

Staff proposed the name of Dappler Lane and recommended approval.

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

Commissioner Mitchell moved, Commissioner Sides seconded and the vote to approve Staff's recommendation of Dappler Lane passed unanimously.

4. UPDATE ON ROWAN-SALISBURY SCHOOLS CONSTRUCTION PROJECTS

Ed Watson of Construction Control Corporation (CCC) and Jim Christy of Rowan-Salisbury Schools (RSS) provided a brief update on the school construction projects.

5. CONSIDER APPROVAL OF WATER/SEWER AGREEMENT & RESOLUTION BETWEEN ROWAN-SALISBURY SCHOOLS (RSS) & SALISBURY-ROWAN UTILITIES (SRU)

Jim Christy of Rowan-Salisbury Schools (RSS) discussed the agreement between RSS, Salisbury-Rowan Utilities (SRU) and DRJ Development, LLC. Mr. Christy said the Board of Education had approved the agreement at its last meeting.

Mr. Christy said the estimated project cost remained at the budgeted amount of \$1,300,000. Mr. Christy asked the Commissioners to approve the agreement and resolution, which would enable the new East Elementary School to be served by municipal water and sewer.

Commissioner Mitchell moved for approval of the request. The motion was seconded by Commissioner Blount.

Commissioner Sides said he would vote against the motion due to the way the contract was written. Commissioner Sides said he disapproved of turning over water/sewer utilities to the City of Salisbury when the utilities were developed with County funds. Commissioner Sides estimated that the County had turned over approximately \$10 million in facilities to the City within a recent short timeframe.

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

Commissioner Mitchell moved, Commissioner Blount seconded and the vote for approval of the Resolution as attached passed 4-1 with Commissioner Sides dissenting.

6. APPROVAL OF TURNING LANE AGREEMENT WITH RSS & NCDOT

Jim Christy of Rowan-Salisbury Schools (RSS) discussed the proposed agreement with the North Carolina Department of Transportation (NCDOT) for the construction of right and left turn lanes to the new Jesse Carson High School. Mr. Christy said the agreement caps the cost to the school system at \$230,000, which is \$20,000 under the budgeted amount of \$250,000. Mr. Christy said if the project cost less than \$230,000, the difference would be refunded.

Mr. Christy said the Board of Education had approved the agreement and the attached resolution and was asking for approval from the Commissioners.

Commissioner Blount moved, Commissioner Mitchell seconded and the vote for approval as requested passed unanimously.

7. CONTINUATION OF QUASI-JUDICIAL HEARING FOR PCUR 02-06 FORM CAROLINA SITEWORKS

Ed Muire, Rowan County Planning Manager, confirmed to Chairman Chamberlain that the Board had closed the public hearing regarding PCUR 02-06 at the April 3, 2006 Commission meeting and that the Board was still in the deliberation stages.

Mr. Muire said the current agenda packets contained the same Staff Report that was presented at the April 3, 2006 meeting.

Mr. Muire said he had asked the Clerk to distribute an equipment inventory listing for Carolina Siteworks. Mr. Muire said the inventory listing was mentioned in Staff's cover letter for the current meeting. Mr. Muire said he also had a letter from the NCDOT District Engineer Chris Corriher, which indicates that NCDOT has reviewed Carolina Siteworks proposal and "they do not foresee any adverse impact of the traffic" on Hwy 152 with relocation to the site.

Mr. Muire used a power point presentation to show the current Carolina Siteworks office facility and repair shop. Mr. Muire showed photographs of trucks and equipment and said these types of items were anticipated to be located at the site on Wade Drive if the Board approved the request.

Mr. Muire said the issues mentioned above were provided, not as new testimony but as clarification to questions that were raised during the hearing on April 3, 2006.

Mr. Muire said Darrell Shell was present to answer any questions the Board might have. Mr. Muire also reported that Staff was not required to notify the adjoining property owners of the continued hearing, however he said Staff had sent a reminder as a courtesy.

Chairman Chamberlain informed the Board that he had visited the site but that he did not speak with anyone.

Commissioner Sides said he had also visited the site. Commissioner Sides said he had received a call from one of the owner's of Carolina Siteworks regarding the project. Commissioner Sides described the call as "general conversation."

Commissioner Mitchell said his issue with approval of the request had been based for the most part on the traffic capacity of Hwy 152. Commissioner Mitchell said based on the letter from Chris Corriher that his questions had been answered.

Commissioner Mitchell said with the history of the site relating to commercial and industrial activity since the 1960's, and the proposed conditions that came from the Planning Board, "I am ready to move to approve the rezoning." The motion was seconded by Commissioner Sides.

Commissioner Sides said he had observed the site to be in a very bad state. Commissioner Sides described the buildings as being in foul shape and he said the property itself had not been maintained. Commissioner Sides said he had mentioned to the individual from Carolina Siteworks that there were recommended requirements that would be placed on the permit. Commissioner Sides said the individual had no problems with the recommendations and that Carolina Siteworks planned to be a good neighbor.

Chairman Chamberlain said he could understand one neighbor's hesitancy because of the location of their home in relation to the business. Chairman Chamberlain felt the business would be an improvement over what is there now.

Commissioner Mitchell questioned Staff about removal of the SIC Code that was discussed at the April 3rd hearing. Commissioner Mitchell asked if this discussion

would be more appropriate during the conditional use permit portion of the rezoning process and Mr. Muire said yes.

Chairman Chamberlain questioned the Statement of Reasonableness and Consistency and Mr. Muire responded that the Board could adopt the statement from the Planning Board, portions of the statement or come up with its own statement.

In support of his motion Commissioner Mitchell submitted the Statement of Reasonableness and Consistency as the Planning Board had recommended.

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

Commissioner Mitchell moved that the development of the property in accordance with the proposed conditions will not materially endanger the public health or safety. The motion was seconded by Commissioner Sides and carried unanimously.

Commissioner Mitchell moved 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. The motion was seconded by Commissioner Sides and passed unanimously.

Commissioner Mitchell moved that the location and character of the development in accordance with conditions will be in general harmony with the area in which it is located and in general conformity with any adopted county plans. The motion was seconded by Commissioner Sides and passed unanimously.

Commissioner Mitchell moved for approval of the conditional use permit with the 8 conditions as listed by the Planning Board under the Statement of Consistency, and also for discussion purposes, the removal of the SIC code that referred to the removal of selling of used cars. The motion was seconded by Commissioner Sides and passed unanimously.

8. BUDGET AMENDMENTS

Commissioner Sides moved, Commissioner Blount seconded and the vote for approval of the 3 budget amendments as submitted passed unanimously.

ADDITIONS

8b. T-hangar lease

County Manager William Cowan said there was a question with the lease agreement the Board had approved on April 17, 2006 regarding the new t-hangars. Mr. Cowan said the Board had failed to specify the number of years in the provision pertaining to the depreciation schedule.

Commissioner Mitchell recalled that one of the leases reviewed by the Board specified the usable life of the hangars at 25 years.

Commissioner Sides said he understood that at the end of 25 years there would be no value, in that the usable life would have depreciated out.

Commissioner Blount disagreed with Commissioner Sides' philosophy and said when the Board discussed the next agenda topic, he would point out that the Board was giving a different philosophical approach to the Briggs lease.

Commissioner Mitchell said it was not the intention of the Board "to throw people out after 25 years." Commissioner Mitchell said he felt it was the Board's intention to allow individuals to use the hangars as long as they could be used as such.

Commissioner Sides said his intent in suggesting at the end of 25 years "that we allow the extension of the leases by year to year" was due to not knowing the value of the property after 25 years. Commissioner Sides said the County should "keep our options open" since the property might be needed in the future for something besides hangars. Commissioner Sides said the property still might be leased to the t-hangar owners for additional years but that he did not wish to see the Board tie the hands of a future Board.

In response to a query from Chairman Chamberlain, Mr. Cowan responded that his question had been answered.

8a. Briggs Resources Lease

County Manager William Cowan distributed photographs from Briggs Resources that had been presented to the Airport Committee.

Chairman Chamberlain referred to a press release that had appeared in the Charlotte Business Journal regarding the proposed Briggs lease. Chairman Chamberlain described the press release as a surprise and said the Board "had absolutely nothing to do with that."

Chairman Chamberlain suggested that the Board hold a brief discussion pertaining to the proposed Briggs lease and that the Board come back prepared to discuss the lease at the next Commission meeting.

Commissioner Mitchell said it would be helpful to get some of the concerns "on the table" so those issues could be considered as Commissioners reviewed the lease.

Commissioner Blount expressed the following concerns with proposed lease:

- Perpetual land lease, renewable in 25-year increments and in which the County never receives ownership of the building. Commissioner Blount

said he could never approve the lease unless the Board would go back and treat the new t-hangar leases/owners in the same manner.

- Page 2, #5 – Commissioner Blount felt the language could be used in a court of law to force the County to extend the runway.
- Page 2, #7 – Commissioner Blount said he needed an explanation regarding the either/or as far as the operation of an FBO service.
- Page 3, #7, Item b – Does not allow Rowan County to take ownership in the future.
- Page 3 - Right to provide fuel service but the County has no control over the price structure.
- Page 3, (Should be Item #8) a through h – All should be considered in light of what level of service is being provided by the current FBO.
- Page 3, #8, Item d – Flowage fees at the market rate. Commissioner Blount asked how the market rate would be established.
- Page 3, #8, Item e- What considerations for Lessee?
- Page 4, #8, Item g – What control would the County have over the fuel pricing. Commissioner Blount said the lease should incorporate language to inform the County as to how the fuel would be priced.
- Page 4, #8, Item h – Commissioner Blount said he would not agree to an exclusive FBO at the airport
- Page 4, #7 (should be #9) – Commissioner Blount expressed concern with what leases would be terminated.
- Page 5 – Terms
- Page 7, Section 1.08 – Limitations on Use – Commissioner Blount said the reference to Section 13.01 actually discusses something totally different. Commissioner Blount encouraged the Board to review these discrepancies throughout the agreement.
- Page 8, Section 2.04 Breach of Terms and Provisions – Commissioner Blount said there was nothing in the contract to take ownership of the building away from the Lessee.
- Page 9, Section 3.02 Operation of Facilities – Commissioner Blount said he did not see where the Lessee would be required to reconstruct the building and that he also did not see any language in the document pertaining to the height of the building and its intrusion into the airport zone.
- Page 9, Section 3.03 Aircraft Identification and Registration Information and Property Tax – A guarantee to keep the property tax at or below that of surrounding counties. Commissioner Blount said the next line also obligates the County to stop the City of Salisbury from annexing the airport.
- Page 11, Rent - \$1,320/year for property conservatively worth \$390,000. Commissioner Blount said if the Board were to attempt to recoup the base cost in 25 years, it should receive \$15,600/year. Commissioner Blount said the Board should make some profit on the lease.

Chairman Chamberlain said Commissioner Blount had provided a good starting point for the Board members when reviewing the lease.

Chairman Chamberlain read a portion of the press release and suggested that the Board digest the information for discussion at the next Commission meeting.

Commissioner Sides described the Airport as a “diamond in the rough” and said he felt the Board should maintain control of its airport. Commissioner Sides also expressed concern with the request for incentives.

Commissioner Mitchell asked that the County Attorney review the comments that had been made.

Commissioner Mitchell moved to refer the issue back to the Airport Committee. Chairman Chamberlain seconded the motion and the motion passed unanimously.

Chairman Chamberlain said the Airport Committee would notify the Sunshine List of future meetings. Chairman Chamberlain said there were 2 Commissioners on the Committee and all Commissioners would be able to attend, as the meetings would be public. Chairman Chamberlain said the Committee would also be appointing an Airport Advisory Board to determine development plans for the Airport.

9. BOARD APPOINTMENTS

CITY OF SALISBURY PLANNING BOARD

At the April 3, 2006 meeting, the Rowan County Board of Commissioners appointed Tommy Hairston as an ETJ member of the City of Salisbury’s Planning Board. In an effort to stagger the terms of its members, City Council took action to extend Mr. Hairston’s term by one year, expiring on March 31, 2009.

Commissioner Sides moved, Commissioner Mitchell seconded and the vote to extend Mr. Hairston’s term by one year passed unanimously.

CITY OF SALISBURY ZONING BOARD OF ADJUSTMENTS

The City of Salisbury has requested the reappointment of Dr. Andrew Jeter as an ETJ Alternate for the Salisbury Zoning Board of Adjustment. The appointment is for a 3-year term that will expire March 31, 2009.

Commissioner Mitchell moved, Commissioner Blount seconded and the vote to reappoint Dr. Andrew Jeter passed unanimously.

CENTRALINA WORKFORCE DEVELOPMENT BOARD

Centralina Workforce Development Board (WDB) has requested the reappointment of Pam Cordts and Nancy Bilson as Private Sector Representatives. The terms will be for July 1, 2006 through June 30, 2008.

Commissioner Blount moved to reappoint Pam Cordts and Nancy Bilson. The motion was seconded by Commissioner Mitchell and passed unanimously.

10. PUBLIC COMMENT PERIOD

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

1. Kent Ashton of 6270 Lynwood Drive, Concord, said he was present to talk about the t-hangars. Mr. Ashton said he had been a tenant at the Rowan County Airport for 7 years and that he was on the list to purchase a new t-hangar.

Mr. Ashton said he had spoke with approximately 10 of the potential t-hangar buyers and that those 10 potential buyers have reservations regarding the lease. Mr. Ashton said the buyers do not wish to pay \$40,000 for property that would be worth nothing in 25 years.

Mr. Ashton compared the new lease to the older t-hangar leases and said FAA and NC law states that tenants should be treated alike under General Statute 63-53.

Mr. Ashton felt that a hangar should be usable for at least 40 years. Mr. Ashton expressed hope that his hangar would be worth \$50,000 in 25 years. Mr. Ashton said the “re-purchase at depreciated value is not in the older leases” and that the County would once again be treating the users differently. Mr. Ashton said the new lease defines useful economic life of the hangars at 25 years while the older lease defines the same at 40 years.

Mr. Ashton felt the \$500 transfer fee was excessive.

Mr. Ashton said, “We’re putting a significant amount of money in the airport, so we’re going to be a stable base of airport users.” Mr. Ashton said the t-hangar owners would buy fuel and services and that he would pay approximately \$440 in property taxes on his airplane/hangar each year.

Mr. Ashton said there was a legal basis for his comments regarding the FAA and that tenants must be treated alike. Mr. Ashton said the County had set a precedent with its older t-hangar leases and he suggested comparing the similarities of older leases to the new leases.

Mr. Ashton finished by saying he was a recreational user of the Rowan County Airport and was very pleased with the Airport.

2. George Stirewalt, Jr. from China Grove addressed the Board regarding the turning lane for the Jesse Carson High School. Mr. Stirewalt felt there should be no question as to whether a right of way had been obtained and he also felt the issue should not be discussed in Closed Session.

Mr. Stirewalt said he agreed with Commissioner Sides pertaining to the water/sewer projects and that the County should not turn over the lines to Salisbury-Rowan Utilities.

With no one else wishing to address the Board, Chairman Chamberlain closed the Public Comment Period.

11. CLOSED SESSION

Commissioner Mitchell moved at 8:02 pm for the Board to go into Closed Session pursuant to North Carolina General Statutes:

- 143-318.11(a)(1) for the purpose of approving Closed Session minutes to prevent the disclosure of information that is privileged or confidential;
- 143-318.11(a)(5) for discussion regarding price for right of way acquisition for turning lane at Jesse Carson High School.

Commissioner Tadlock seconded and the motion passed 4-1 with Commissioner Sides dissenting.

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

The Board returned to Open Session at 8:15 pm.

Commissioner Mitchell moved to authorize the Board of Education to negotiate the right of way based on the parameters presented. The motion was seconded by Commissioner Sides and passed unanimously.

12. ADJOURNMENT

Commissioner Blount moved, Commissioner Mitchell seconded and the vote to adjourn the meeting at 8:16 pm passed unanimously.

Respectfully Submitted,

Carolyn Athey
Clerk to the Board