

**MINUTES OF THE MEETING OF THE  
ROWAN COUNTY BOARD OF COMMISSIONERS  
August 7, 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

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

Chairman Chamberlain convened the meeting at 7:00 pm.

Before providing the Invocation, Chairman Chamberlain requested special prayer for Commissioner Tadlock and his family. Chairman Chamberlain also led the Pledge of Allegiance.

**ADDITIONS/DELETIONS TO THE AGENDA**

Commissioner Blount moved, Commissioner Mitchell seconded and the vote for approval of the agenda passed unanimously (4-0).

Chairman Chamberlain moved agenda Item #11 to Item #18.

**APPROVAL OF MINUTES**

Commissioner Sides moved, Commissioner Blount seconded and the vote to approve the minutes of the July 17, 2006 Commission meeting passed unanimously (4-0).

**1. CONSIDERATION OF THE CONSENT AGENDA**

Commissioner Sides moved to approve the Consent Agenda. The motion was seconded by Commissioner Mitchell and passed unanimously (4-0).

The Consent Agenda consisted of the following items:

- A. Approval of NCDOT request to add Walden Lane and Weatherby Drive to the State Secondary Road System for Maintenance
- B. Set Public Hearing for August 21, 2006 for Z 04-06
- C. Set Quasi-Judicial Public Hearing for August 21, 2006 for Z 02-06 & CUP 03-06
- D. Set Public Hearing for August 21, 2006 for Z 03-06
- E. Set Public Hearing for August 21, 2006 for Majority Petition for Proposed Road Name of Barefoot Trail
- F. Approval of Tax Settlement Statement for FY 2005-06
- G. Approval of Fiscal Year 2007 Home & Community Care Block Grant Contracts

**2. PUBLIC HEARING FOR UNANIMOUS PETITION FOR PROPOSED ROAD NAME OF CAROLS CAMPGROUND ROAD**

Adrian Rollans of the Rowan County Planning Department presented the information regarding the proposed road name of Carols Campground Road. Mr. Rollans said the road name was acceptable and that Staff recommended approval.

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

Commissioner Mitchell moved, Commissioner Blount seconded and the vote to approve the road name of Carols Campground Road passed unanimously (4-0).

**3. PUBLIC HEARING FOR MAJORITY PETITION FOR PROPOSED ROAD NAME OF DRYE HAVEN LANE**

Adrian Rollans of the Rowan County Planning Department presented the information regarding the proposed road name of Drye Haven Lane. Mr. Rollans said the road name was acceptable and that Staff recommended approval.

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

Commissioner Sides moved, Commissioner Blount seconded and the vote to approve the road name of Drye Haven Lane passed unanimously (4-0).

**4. PUBLIC HEARING FOR SPECIAL CONSIDERATION OF PROPOSED ROAD NAME OF FRALEY ACRES LANE**

Adrian Rollans of the Rowan County Planning Department presented the information regarding the proposed road name of Fraley Acres Lane. Mr. Rollans explained that while the road had not been officially named, it was generally referred to as Fraley Road. Mr. Rollans said an unofficial road sign had

been installed, which caused confusion for the company handling the county mapping and road/address verification.

Mr. Rollans said because another “Fraleley” exists in the county, an official name other than Fraley Road must be assigned to this road.

Property owners were notified and given the option of presenting a petition. While no petition was returned, Staff did receive several calls in support of Fraley Acres Lane.

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

Commissioner Blount moved, Commissioner Sides seconded and the vote to approve the road name of Fraley Acres Lane passed unanimously (4-0).

#### **5. PUBLIC HEARING FOR MAJORITY PETITION FOR PROPOSED ROAD NAME OF MARISOL LANE**

Adrian Rollans of the Rowan County Planning Department presented the information regarding the proposed road name of Marisol Lane. Mr. Rollans said a petition was completed with 2 out of 3 signatures for the name. Mr. Rollans reported that the road name was acceptable and that Staff recommended approval.

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

Commissioner Sides moved, Commissioner Blount seconded and the vote to approve the road name of Marisol Lane passed unanimously (4-0).

#### **6. QUASI-JUDICIAL HEARING FOR SUP 01-06**

Chairman Chamberlain read the Chairman’s Speech (Exhibit A) and declared the public hearing for SUP 01-06 to be in session. Chairman Chamberlain said the hearing would focus on an application submitted by Orica, Inc. for property located along the 2000 block of High Rock Road in the Morgan Township. The application is for a special use permit to allow a 50’ x 85’ expansion to an existing nonconforming facility in a RA zoning district on a 29.91-acre parcel referenced as Tax Parcel 538-012.

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

John Hanes of the Rowan County Planning Department provided the Staff Report (Exhibit B) for SUP 01-06. Mr. Hanes explained that Orica USA, Inc. owns a 29.91-acre parcel identified as TP 538-012 with 1647 feet of state road

frontage along High Rock Road. Mr. Hanes said the company currently owns 315 acres that surround the site and was requesting to add a 50' x 85' expansion to its existing facility. The area would be used as a truck refurbishment center.

Mr. Hanes read the Details of Action listed in the Staff Report (Exhibit B) as follows:

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 landscaping requirements.
3. There is no significant adverse impact on surrounding properties or the 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 Staff received no calls concerning the case and found that the above 3 conditions did satisfy the requirements for approval of the permit.

Commissioner Mitchell moved to approve SUP 01-06. The motion was seconded by Commissioner Blount. Commissioner Mitchell read and included the following Findings of Fact (Exhibit C) as part of the motion:

1. There is no increase in the total amount of area devoted to the nonconforming use.

FACT: Although the 50' x 85' expansion will increase the building square footage, no net increase in the operational area will occur based upon site plan submitted by the applicant.

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 landscaping requirements.

FACT: Based on the site plan, there will be no greater nonconformity in these standards at the site.

3. There is no significant adverse impact on surrounding properties or the public health or safety including but not limited to no increase in the level of noise, dust, odor, glare or other nuisances.

FACT: Applicant states Orica, Inc. is regulated by the Bureau of Alcohol, Tobacco and Firearms (ATF) and conforms to all federal, state, and local regulations.

FACT: The expansion area will not be visible from High Rock Road and the 315 acres surrounding the site are owned by Orica, Inc.

Commissioner Blount accepted the above Findings of Fact into the motion and upon being put to a vote, the motion passed unanimously.

**7. CONSIDERATION OF FAMILY SUBDIVISION WAIVER REQUEST (FSW 02-06)**

John Hanes of the Rowan County Planning Department presented the background concerning Family Subdivision Waiver (FSW) 02-06. Mr. Hanes explained that Peggy Wilson owns a 3.09-acre tract, TP 243-046, which is located off of Christy Circle. Mr. Hanes said Ms. Wilson's daughter, Sherri O'Neill, had submitted a FSW request proposing that the tract be subdivided so that Ms. Wilson could place a home on the one-acre lot. The O'Neill's would retain the existing tract.

Mr. Hanes read Planning Staff's recommendations, which were listed in the Staff Report. Mr. Hanes also reported that notification of the request was sent to surrounding property owners and that Staff received no phone calls regarding the family subdivision waiver.

Chairman Chamberlain pointed out that the notifications were not a requirement.

Chairman Chamberlain asked if the applicant or adjoining property owners were present that might wish to address the Board. There was no response from the audience.

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

**8. PUBLIC HEARING FOR CONSIDERATION OF OFFER TO PURCHASE LOT #10 IN SPEEDWAY BUSINESS PARK**

County Manager William Cowan said Dave Blaney had made offer to purchase lot #10 in Speedway Business Park for a racing-related business. Mr. Cowan reported that Mr. Blaney had discussed his plans with Staff regarding the restrictive covenants and zoning, and that Mr. Blaney would satisfy those restrictions. Mr. Cowan said a public hearing was required since the Board was entertaining an offer within the fair market value range of the property.

Chairman Chamberlain opened the public hearing to entertain citizen input regarding the offer to purchase lot #10 in Speedway Business Park. With no one wishing to address the Board, Chairman Chamberlain closed the public hearing.

Commissioner Sides asked if language could be incorporated into the contract, which would require that building on the lot commence within a certain period of time?

Planning Manager Ed Muire said that he was not aware if the restrictive covenants addressed Commissioner Sides' question.

County Attorney Jay Dees said it would be in order to relay the information to the purchaser and possibly determine a commencement date, which could be reported back to the Board.

Commissioner Sides said based on Mr. Dees comments, he would move to accept the offer to sell the property. The motion was seconded by Commissioner Blount and passed unanimously (4-0).

#### **9. PRESENTATION FROM LUTHERAN SERVICES FOR THE AGING**

Ted Goins, Jr., President of Lutheran Services for the Aging came forward with several of the agency's staff members to provide the Board with a presentation regarding care for the elderly.

Mr. Goins read the agency's mission statement and discussed the importance of collaboration in addressing the needs of older adults. Mr. Goins also briefly discussed a health and human services needs assessment that had been performed in the community.

Chairman Chamberlain thanked Mr. Goins for the presentation.

#### **10. DISCUSSION OF ALCOA AGREEMENT IN PRINCIPLE (AIP)**

County Manager William Cowan and Greg Greene from the Environmental Services Department discussed the Alcoa Agreement in Principle (AIP). Mr. Cowan said the agenda packets contained a summary of the AIP for the relicensing of High Rock Lake as submitted by Alcoa. Mr. Cowan referred to page 3 and said the agreement was summarized in graph form. Mr. Cowan said the agreement was non-binding.

Mr. Cowan pointed out that he had received and provided each Commissioner with a copy of a memorandum and a Resolution that was hand-delivered earlier in the day from Matt Bernhardt, Assistant City Manager for Utilities, Salisbury-Rowan Utilities. Mr. Cowan said the Resolution asked for the Board to consider supporting the City of Salisbury's position involving sedimentation issues around their intake.

Mr. Greene reiterated that the AIP was a non-binding agreement that allowed Rowan County to remain at the negotiating table while moving towards a Relicensing settlement agreement, which was binding.

Mr. Greene confirmed to Chairman Chamberlain that Rowan County would be removed from negotiations if the County did not sign the AIP.

Commissioner Blount expressed appreciation to Staff for their hard work and for attending the meetings concerning the negotiations. Commissioner Blount said Staff was advising that it was safe to support the AIP.

Commissioner Blount moved to authorize the correct person as stated in the AIP to sign the document. Commissioner Sides seconded and the motion passed unanimously (4-0).

Commissioner Blount referred to the request from the City of Salisbury for adoption of the Resolution supporting their claim against Alcoa for the sedimentation issue at their intake. Commissioner Blount said Rowan County was a part of the water system and he moved to adopt the Resolution presented by the City of Salisbury. Commissioner Blount said he understood the Resolution merely showed the County's support of the City in attempting to resolve the agreement with Alcoa and to help mitigate the costs. Chairman Chamberlain seconded the motion and then read from portions of the AIP in which Alcoa expressed hope that discussions with the City of Salisbury might lead to the development of a separate AIP with Salisbury.

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

#### **11. DISCUSSION REGARDING PROPOSED GROUND LEASE AT AIRPORT FROM ALAN WINNINGER**

At the beginning of the meeting, Chairman Chamberlain moved discussion for the proposed ground lease from Alan Winninger to Agenda Item #18.

#### **12. DISCUSSION REGARDING BIDS/CONTRACT FOR VEHICLE MAINTENANCE**

County Manager William Cowan recalled that at the Board's Retreat, the Commissioners had directed him to find alternatives to the current system of providing maintenance for the County's vehicle fleet. Mr. Cowan explained that Staff had issued a Request for Proposals (RFP) and bids were received from 6 vendors. Mr. Cowan asked the Board's direction on whether to continue service as is or to seek a contract for total service.

In response to a query from Chairman Chamberlain, Finance Director Leslie Heidrick confirmed that John Love had submitted the lowest proposal for vehicle maintenance.

Chairman Chamberlain referred to correspondence in the agenda packet from Ken Deal, Director of Administration. Mr. Deal's correspondence stated that a contract could not be located for the County's current fleet maintenance agreement with Mr. Love. Mr. Deal understood that the current agreement was an oral contract between Mr. Love and the former County Manager.

Mr. Cowan explained that the County employed Mr. Love full-time and also leased one bay in Mr. Love's garage through an oral agreement. Mr. Cowan then explained the breakdown of the vehicle maintenance proposals. Mr. Cowan said the breakdown revealed that the County currently pays \$81,920, plus parts, and the low bid costs were \$86,324.

Commissioner Sides felt it would be in the County's best interest to "have the service closer to home" and that he would like to see Staff negotiate prices with some of the other vendors in an attempt at a better price.

Commissioner Mitchell said he was pleased to discover that the County had entered a favorable agreement and that he was pleased with the service. Commissioner Mitchell moved that unless the Sheriff was pushing for a change then he had no problem staying with the low bid, either in the current form or through a contract form and that he would leave it to the County Manager to determine the best deal between contract versus employee. Commissioner Blount seconded the motion.

Chairman Chamberlain said he was not opposed to Mr. Love. Chairman Chamberlain said he would like to see the County Manager negotiate with Mr. Love or anyone else that was available for negotiations.

Upon being put to a vote, the motion on the floor failed 2-2 with Commissioners Mitchell and Blount voting aye and Commissioners Chamberlain and Sides voting nay.

### **13. BOARD APPOINTMENTS** **JUVENILE CRIME PREVENTION COUNCIL**

Joshua Hoehman has submitted his resignation from the Juvenile Crime Prevention Council (JCPC). Joshua has served on the JCPC since April 4, 2005 in the slot for youth under age 18.

Commissioner Mitchell moved to accept Mr. Hoehman's resignation and the motion passed unanimously (4-0).

### **ROWAN COUNTY BOARD OF HEALTH**

Dr. Gary Fink has resigned from the Board of Health. An application has been received from Dr. Robert B. Tannehill to fill the remainder of Dr. Fink's term, which will expire on December 31, 2007.

Commissioner Mitchell moved to accept the resignation of Dr. Gary Fink and the motion carried unanimously (4-0).

Commissioner nominated Dr. Robert Tannehill to fill the remainder of Dr. Fink's term and the nomination passed unanimously (4-0).

## **ROWAN COUNTY TOURISM DEVELOPMENT AUTHORITY**

Jeff Hall and Kelly Alexander have submitted applications for appointment as representatives of Sites and Attractions. The terms are for 2 years, beginning on August 1, 2006 and expiring on July 31, 2008.

Commissioner Blount moved for approval of the nominations as submitted and the nominations passed unanimously (4-0).

## **CENTRALINA AREA AGENCY ON AGING**

The Commissioners have received an official request from Centralina Council of Governments to remove Kate Petherick from this board. Due to her work schedule, Ms. Petherick does not feel that she can continue to serve.

Commissioner Blount moved to remove Kate Petherick from the Board and the motion passed unanimously (4-0).

## **LOCAL EMERGENCY PLANNING COMMITTEE**

The Local Emergency Planning Committee (LEPC) has recommended the appointment of Lt. Reggie Bost. Lt. Bost will be replacing retiring committee member Lt. Ronnie Terry. (The length of terms are at the discretion of the Board of Commissioners.)

Commissioner Blount moved to appoint Lt. Reggie Bost and the motion passed unanimously (4-0).

## **14. BUDGET AMENDMENTS**

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

## **15. DISCUSSION REGARDING MEETING SCHEDULE FOR SEPTEMBER**

Chairman Chamberlain explained that he, along with Commissioner Sides and the County Manager had conflicting schedules with the Board's regular meetings in September.

After a brief discussion, the Board by consensus agreed to hold one (1) regular meeting for the month of September. The meeting was scheduled for September 14, 2006 at 9:00 am.

At this point, Chairman Chamberlain recognized Salisbury City Councilman Bill Burgin and Salisbury City Manager Dave Treme in the audience. Chairman Chamberlain informed Mr. Burgin and Mr. Treme that the Commission meeting had progressed quickly and that the Board had adopted the Resolution submitted by the City but had also voted to sign the AIP with Alcoa. Chairman Chamberlain explained that the County voted to sign the AIP in order to allow the County to remain at the negotiating table.

## **16. PUBLIC COMMENT PERIOD**

Chairman Chamberlain opened the Public Comment Period to entertain citizen input.

- Bill Burgin, Salisbury City Councilman and Dave Treme, Salisbury City Manager came forward. Mr. Burgin said he had hoped to arrive for the meeting prior to the Board's vote on the Resolution submitted by the City. Mr. Burgin thanked the Board for supporting the Resolution and said he felt it important that all elected officials representing the constituents support the efforts. Mr. Burgin said the effects of the dam are basically bringing sediment into the river that would eventually create a cost for those that use the water. Mr. Burgin said the City had hoped that the Board would stand firm with them in asking Alcoa to remediate the issue. Mr. Burgin said he had also been prepared to ask the Board to request that Alcoa eliminate the clause in the agreement, which stated if Alcoa had other expenses associated with their permitting that they could not then negate the agreement the Board had just signed. Mr. Burgin felt the Board had signed the agreement in good faith and that the Board should at least have, in good faith from Alcoa, the ability for the agreement to stand. Mr. Burgin did not think this had happened and said he felt Alcoa had an out-clause that they had not given the Commissioners. Mr. Burgin said the issue was serious for all of the citizens served by the water system.

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

## **17. CLOSED SESSION**

Commissioner Mitchell moved at 7:57 pm for the Board to enter Closed Session pursuant to North Carolina General Statute 143-318.11(a)(1) to consider approval of the June 19, 2006 and July 10, 2006 Closed Session Minutes; and North Carolina General Statute G.S. 143-318.11(a)(3) for Attorney-Client Privileged Communication regarding Wilson Properties and Rowan Power. The motion was seconded by Commissioner Blount and passed unanimously (4-0).

Chairman Chamberlain announced that the Board would discuss the proposed lease from Alan Winninger when it returned from Closed Session. Chairman Chamberlain then called for a short break before entering Closed Session.

### **Return to Open Session**

The Board returned to Open Session at 8:28 pm.

## **18. PROPOSED GROUND LEASE AT AIRPORT FROM ALAN WINNINGER**

Commissioner Mitchell moved to table the discussion regarding the proposed ground lease at the airport from Alan Winninger. The motion was seconded by Commissioner Sides and passed unanimously (4-0).

### **Wilson Properties**

Commissioner Mitchell moved that the Board accept the purchase price of \$500,000 for the Wilson hangar building. The motion was seconded by Chairman Chamberlain.

Commissioner Blount reminded the Board that it was his belief that the County should hold onto the hangar through the lease period and allow the hangar to revert to the County's ownership in its entirety.

Commissioner Sides said he was ready to put the issue to rest. Commissioner Sides said he would prefer to see the Board offer Wilson Properties \$500,000 less the 2 months rent being held in escrow but that it appeared the action would create a stalemate with the Board. Commissioner Sides said he would go along with the motion to purchase the hangar for \$500,000 based on the information received in Closed Session.

Upon being put to a vote, the motion to purchase the hangar for \$500,000 passed 3-1 with Commissioner Blount dissenting.

Commissioner Mitchell moved to authorize and approve a budget amendment in the amount of \$500,000 to appropriate funds for the purchase. Commissioner Sides seconded and the motion passed unanimously (4-0).

Mr. Cowan said the Board had received an offer from Dean Belk to purchase the Wilson hangar for \$430,000. The offer would be subject to the upset bid process with the actual sale going to the highest bidder. Mr. Cowan said the only requirements for the purchase was a minimum lease of 40 years, including all options. Mr. Cowan said the ground lease would be at the market rate.

Commissioner Mitchell moved to accept the offer to purchase from Dean Belk as stated by the County Manager. Commissioner Sides seconded the motion.

Commissioner Blount clarified that the motion included the 40-year land lease, which at the end of that period of time, the ownership of the building would convert to the County.

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

## **Rowan Power**

Commissioner Blount stated that the Board had received legal advice from County Attorney Jay Dees regarding assigned rights and obligations under the Location Assistance Agreement for Rowan County Power, LLC. Commissioner Blount said Mr. Dees was in agreement with Ernest Pearson, the attorney representing Southern Power Company, that there is not an assignment of the agreement, but instead that Rowan County Power, LLC would continue to be entitled to the rights and be bound by the obligations under the agreement.

Commissioner Blount moved to agree with Mr. Pearson's letter that no assignment is required on the incentive agreement. Commissioner Blount clarified the motion to mean that the incentive would continue on under the new ownership for the remaining 9 months. Commissioner Mitchell seconded the motion.

Commissioner Blount felt that unless there were drastic changes at the plant he didn't see why the Board would consider changing the agreement.

In response to a query from Commissioner Mitchell, Mr. Dees said the original date of the incentive agreement was August 21, 2000.

Finance Director Leslie Heidrick explained that the incentive agreement did not come into effect until the company was operational.

Commissioner Sides said he disagreed with the analogy and Rowan Power, LLC was being purchased "by a totally different company."

The motion on the floor passed 3-1 with Commissioner Sides dissenting.

## **18. ADJOURNMENT**

Commissioner Mitchell moved, Commissioner Blount seconded and the vote to adjourn the meeting 8:45 pm passed unanimously (4-0).

Respectfully Submitted,

Carolyn Athey  
Clerk to the Board