

**MINUTES OF THE MEETING OF THE
ROWAN COUNTY BOARD OF COMMISSIONERS
February 5, 2007 – 4:00 PM
J. NEWTON COHEN, SR. ROOM, ADMINISTRATION BUILDING**

Present: Arnold S. Chamberlain, Chairman
Chad Mitchell, Vice-Chairman
Jon Barber, Member
Tina Hall, Member
Jim Sides, 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 4:00 pm.

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

CONSIDER APPROVAL OF THE MINUTES

Commissioner Mitchell moved, Commissioner Barber seconded and the vote to approve the minutes of the January 16, 2007 and January 8, 2007 Commission Meetings passed unanimously.

CONSIDER ADDITIONS TO THE AGENDA

Chairman Chamberlain moved to add a discussion regarding the March meeting dates. The motion was seconded by Commissioner Mitchell and passed unanimously.

CONSIDER DELETIONS FROM THE AGENDA

There were no deletions from the agenda.

CONSIDER APPROVAL OF THE AGENDA

Commissioner Mitchell moved to approve the agenda. The motion was seconded by Commissioner Barber and passed unanimously.

1. CONSIDER APPROVAL OF CONSENT AGENDA

Commissioner Sides moved for approval of the Consent Agenda. The motion was seconded by Commissioner Hall and passed unanimously.

The Consent Agenda consisted of the following items:

- A. Approval of Request from NCDOT for Revisions to the Proposed New Addition of Mile Long Road to the State Secondary Road System for Maintenance
- B. Approval of Request from NCDOT to add Sarah Drive to the State Secondary Road System for Maintenance
- C. Approval of Request from NCDOT to Extend Mendenhall Road by 410' & to Add the Extension to the State Secondary Road System for Maintenance
- D. Approval of Fee Schedule from Health Department for FY 2006-07 Dental Fees
- E. Approval of Health Department Request to Apply to Fit Community Designation & Grant Application Grants Program
- F. Approval of Request from Lighthouse Care Services for Annual Renewal of Lease
- G. Approval for Rowan Public Library to Apply for a National Endowment for the Arts (NEA) Grant
- H. Approval for Rowan Public Library to Apply for Library Services & Technology Act (LSTA) Grants
- I. Set Public Hearing for February 19, 2007 for Unanimous Petition for Webb Farm Road
- J. Set Public Hearing for February 19, 2007 for Z-01-07
- K. Approval for the Department of Social Services to accept NC Division of Medical Assistance Grant Funds

2. PUBLIC HEARING TO CONSIDER REDUCING PLANNING BOARD MEMBERSHIP; CONSIDER APPOINTMENTS TO PLANNING BOARD

Rowan County Planning Director Ed Muire explained that the public hearing and discussion regarding Planning Board membership and appointments had been tabled from the January 16, 2007 Commission meeting. Mr. Muire reported that the public hearing had been re-advertised as required by statute.

Mr. Muire described the current 11-member Planning Board as somewhat "cumbersome" because of its size. Mr. Muire said Staff felt that reducing the Planning Board to 9 members would allow for less members in attendance to achieve a quorum, better seating arrangements at the current meeting location and provide better opportunities for board discussions.

Mr. Muire said that Staff would also be approaching the Commissioners to consider reducing the size of the Zoning Board of Adjustment to a 5-member board.

Chairman Chamberlain opened the public hearing to entertain citizen input regarding the proposed changes to the Planning Board membership. The following citizens addressed the Board:

1. Terry Hill, current Planning Board Chairman, said he felt the Planning Board had worked well with 11 members. Mr. Hill felt the Planning Board members were effective and had a high meeting attendance.
2. James Rollans highlighted the following suggestions regarding the most effective size for the Planning Board's membership:
 - Emphasis should be placed on establishing a number that would facilitate the efficiency of operation
 - Subcommittees of the Planning Board should be composed of an odd number of members, each with its own Chairperson and with the Planning Board Chairman attending committee meetings as an ex-officio member
 - Members be representative of the entire community
 - Mr. Rollans felt the most efficient number of Planning Board members was 11
 - Each Commissioner, when elected, appoint by right 2 members to the Planning Board with members serving a 2-year term; the Chairman would appoint 1 additional member to the Planning Board.

With no one else wishing to address the Board, Chairman Chamberlain closed the public hearing.

Commissioner Mitchell questioned the functioning of the Planning Board with lesser members and Mr. Muire said it would remain the same. Mr. Muire said the most important factor was that the Planning Board and its subcommittees were only advisory boards and that all decisions rest with the Commissioners. Mr. Muire felt the representation would be the same and he expressed hope that a smaller board would foster more discussions.

In response to a query from Commissioner Hall, Mr. Muire said an 11-member board was not a problem however it would create a better working environment for the board. Mr. Muire said none of the members had approached him pertaining to 11 members being an issue.

Commissioner Barber asked if other counties have boards similar to what was being proposed. Mr. Muire said he had not looked beyond the County's boundaries but he mentioned that the statutes require 3 members.

Commissioner Sides commented that he had spoken to a number of the Planning Board's members and they had concerns with a reduction in membership. Commissioner Sides also mentioned that in the past 3 years, the Planning Board had always had a quorum present.

Commissioner Sides moved to leave the Planning Board at its current membership of 11 members. The motion was seconded by Commissioner Hall.

Chairman Chamberlain said he felt 11 members were “functionally too many” and that all members did not serve as well as Terry Hill.

Commissioner Mitchell questioned Mr. Muire’s time in working with the Planning Board and Mr. Muire said since 1993, and more specifically since September of 2004. Commissioner Mitchell asked Mr. Muire if he honestly felt that reducing the Planning Board from 11 to 9 members would create a better functioning board. Mr. Muire responded yes.

Upon being put to a vote, the motion on the floor failed 2-3 with Commissioners Chamberlain, Mitchell and Barber dissenting.

Commissioner Mitchell moved to reduce the Planning Board membership from 11 members to 9 members. The motion was seconded by Chairman Chamberlain and passed on a 3-2 vote with Commissioners Sides and Hall dissenting.

Consider Appointments to the Planning Board

Chairman Chamberlain opened the floor for nominations to fill 2 positions on the Planning Board.

Commissioner Mitchell nominated Joe Teeter.

Commissioner Sides nominated Carl Ford.

Commissioner Barber nominated Melanie Earle and Greg Edds.

The following votes were then recorded:

- Joe Teeter received 1 vote from Commissioner Mitchell
- Carl Ford received 2 votes from Commissioners Sides and Hall
- Melanie Earle received 5 unanimous votes
- Greg Edds received 2 votes from Commissioners Chamberlain and Barber

Melanie Earle was reappointed.

With Carl Ford and Greg Edds receiving tie votes, an additional vote was taken. Carl Ford was appointed to the Planning Board, receiving the support of Commissioners Sides, Hall and Mitchell.

2a. ADDITION

Chairman Chamberlain reported that he and the County Manager would be attending the National Association of County Commissioners meeting in Washington from March 3 through March 7 and would therefore be absent from the March 5 Commission meeting. Chairman Chamberlain proposed holding one Commission meeting for the month of March and he suggested March 19.

After a brief discussion the Board agreed by consensus to meet on March 19, 2007 at 5:30 pm.

3. CONSIDER REQUEST FOR TECHNOLOGY BID FOR ETHAN H. SHIVE ELEMENTARY SCHOOL

Jim Christy from the Rowan-Salisbury Schools explained that the Board of Education (BOE) had approved the technology bid for Ethan H. Shive Elementary School on January 8, 2007. Mr. Christy reported that the technology budget was \$146,043. The BOE recommended awarding a contract to Ken-Nect Communications in the amount of \$116,445.

Commissioner Sides moved, Commissioner Hall seconded and the vote to award the contract to Ken-Nect Communications in the amount of \$116,445 passed unanimously.

4. CONSIDER REQUEST FOR SNIA 01-07

Shane Stewart of the Rowan County Planning Department said that a Special Non-Residential Intensity Allocation (SNIA) request had been submitted to allow 70% impervious coverage on property identified as Tax Parcel 230D-062 and owned by Scott Bagshaw.

Commissioner Sides moved for approval of SNIA 01-07. The motion was seconded by Commissioner Mitchell and carried unanimously.

5. CONSIDER REQUEST FOR SNIA 02-07

Shane Stewart of the Rowan County Planning Department said that a Special Non-Residential Intensity Allocation (SNIA) request had been submitted to allow 70% impervious coverage on property identified as Tax Parcel 230D-063 and owned by Harvey Bagshaw.

Commissioner Sides moved, Commissioner Mitchell seconded and the vote to approve SNIA 02-07 passed unanimously.

6. CONSIDER APPOINTMENT OF NORTH CAROLINA ASSOCIATION OF COUNTY COMMISSIONERS LEGISLATIVE LIAISONS

Chairman Chamberlain said that the North Carolina Association of County Commissioners (NCACC) was asking all 100 counties to appoint a county commissioner as a Legislative Liaison. Chairman Chamberlain said each liaison

would serve as a conduit of information between the NCACC and the Board of Commissioners.

Commissioner Hall moved to appoint Commissioner Barber as the NCACC legislative liaison. The motion was seconded by Commissioner Mitchell and passed unanimously.

7. DISCUSSION FOR PROPOSED POLICY REGARDING ACCESS TO PRIVATE PROPERTY

County Attorney Jay Dees recalled that the Board had discussed the proposed policy at the January 16, 2007 meeting. Mr. Dees said the Board had requested one minor change, which was reflected in the policy in the agenda packet.

Commissioner Sides said he was not questioning the City's jurisdictional authority. Commissioner Sides said his intent with the proposed policy was to state that if the County were a funding partner in any project, that there be a stronger set of regulations to force the City to have to exercise more control when entering private property.

Commissioner Mitchell said the proposed policy as written says "permission" and not "notification." Commissioner Sides said the City would need to get permission or go through the proper condemnation rights, which they could do within a 30-day period. Commissioner Mitchell questioned the cost of the process. Mr. Dees said any municipality exercising its rights could get an injunction against the property owner to enjoin them from preventing access to the property. Mr. Dees said the cost of bringing the action was fairly minimal.

Chairman Chamberlain expressed concern with the policy.

Commissioner Barber suggested that the County handle the notification process and Commissioner Sides responded that he felt the notification process was not the County's responsibility.

Commissioner Hall suggested a compromise through the implementation of a fine as opposed to pulling funding for a project. The fine would be imposed if proper notification was not provided to the property owner.

Mr. Dees said the Board could look at penalties in an agreement where the Board had provided funding. Mr. Dees said penalties could be built in as an option or that the Board could exclude the properties that didn't receive notification from the project agreement.

Commissioner Mitchell said he was in favor of Commissioner Hall's idea of a penalty structure being worked into an agreement. Commissioner Mitchell said he wanted to see proof that property owners were contacted and he wanted agencies to understand the seriousness of any agreement. Commissioner

Mitchell said he would like to give board members and the County Attorney time to consider the suggestions.

Commissioner Mitchell moved to postpone the proposed policy until the March 19th Commission meeting. Commissioner Barber seconded the motion and the motion passed 4-1 with Commissioner Sides dissenting.

8. CONSIDER BOARD APPOINTMENTS

ROWAN COUNTY LIBRARY BOARD

Midgie Dial has submitted an application for reappointment. The term would be for February 1, 2007 through January 31, 2010.

Commissioner Sides nominated Ms. Dial and the nomination passed unanimously.

FAITH PLANNING BOARD

The Board of Alderman of the Town of Faith requested that Mrs. Lu H. Gamewell be appointed to serve as an ETJ member of the Faith Planning Board. The term of appointment would be for February 1, 2007, expiring on January 31, 2009.

Commissioner Sides nominated Lu Gamewell and the nomination carried unanimously.

AGRICULTURAL ADVISORY BOARD

Gloria Correll has completed her term on the Agricultural Advisory Board. She is not seeking reappointment at this time.

Kim Starnes has also completed his allowable terms of service but has expressed interest in continuing to serve. In order for Mr. Starnes to be reappointed, the Board would need to waive the term limits in the Resolution adopted by the Board in 1999. If approved, the term of appointment would be effective February 1, 2007 and expire January 31, 2011.

Darrell Nichols has also completed his term on this board and is eligible for reappointment. The term of appointment would be effective February 1, 2007, expiring January 31, 2011.

Commissioner Sides moved to waive the term limits of the Resolution.

Commissioner Mitchell seconded and the motion passed unanimously. Commissioner Sides nominated Kim Starnes and Darrell Nichols and the nomination passed unanimously.

ROWAN COUNTY BOARD OF HEALTH

Dr. Philip Roels submitted an application for appointment to the Board of Health. If appointed, Mr. Roels would fill the vacant Optometrist position and the term would be from February 1, 2007, expiring on December 31, 2009.

Commissioner Mitchell nominated Dr. Philip Roels and the nomination carried unanimously.

WEST ROWAN VOLUNTEER FIRE DEPARTMENT

The West Rowan Fire District submitted five applications for consideration from: Bill McLaughlin, Bill Sexton, Gerald Monroe Williams, Daniel E. Caldwell and Kenneth D. Jones. There were three vacancies to be filled.

Commissioner Barber nominated Bill McLaughlin, Daniel Caldwell and Kenneth Jones. The nominations passed unanimously.

9. CONSIDER APPROVAL OF BUDGET AMENDMENTS

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

10. DISCUSSION REGARDING COURTHOUSE FACILITY NEEDS

Chief District Court Judge Charlie Brown, and Clerk of Court Jeff Barger were present to discuss immediate and future courthouse needs. District Attorney William Kenerly and Chief Superior Court Judge John Holshouser both arrived later during the discussion.

Judge Brown described the situation regarding the courthouse facility needs as a crisis in that there are now 7 judges permanently assigned in Rowan County and only 6 courtrooms. Judge Brown discussed the growth and increasing caseloads and also the spirit of cooperation of elected courthouse officials to consolidate, mix, stagger, transfer and continue cases to manage the overwhelming demand. Judge Brown said, "Justice delayed is justice denied." Judge Brown said two (2) additional courtrooms were immediately needed.

Mr. Barger said the addition of a new judge had increased the Clerk of Court Staff total to thirty-four (34). Mr. Barger emphasized that the additional sessions have created an immediate need for two (2) courtrooms. Mr. Barger said when all courts are in session, he did not have a place to conduct the hearings required by his office. Mr. Barger appealed to the Board for help in regards to additional space.

Mr. Kenerly reviewed a handout, which he previously asked the Clerk to the Board to distribute. Mr. Kenerly explained that he only deals with criminal court, which he said was half of what takes place in the courthouse. Mr. Kenerly said the statistics in the handout dealt with superior court where jury trials take place. Mr. Kenerly said, "We have had basically the same amount of superior court to

handle criminal cases for the last 30 years.” Mr. Kenerly said the “jail stays full because we can’t get people out to get them tried.” Mr. Kenerly said there are many ramifications for such delays. Mr. Kenerly discussed the caseload statistics and said he felt staff was making as good of use of resources as possible. Mr. Kenerly was of the opinion that there is an immediate short-term need for two (2) additional courtrooms.

Chairman Chamberlain appointed County Manager William Cowan, Director of Administration Ken Deal, Clerk of Court Jeff Barger and Commissioner Sides to gather information and to work “vigorously” on the courthouse needs. Chairman Chamberlain said Mr. Kenerly, Judge Brown and Mr. Barger were in the “trenches” every day and that the credibility of the presentation and the request was without question.

A brief discussion ensued regarding caseloads, court dockets and the feasibility of holding night court. Commissioner Sides said the Board would need to get the “band-aids on” to address the immediate courthouse needs. Commissioner Sides said the Board would be revisiting the priorities of the Capital Improvement Plan during the retreat scheduled later in the month. Commissioner Sides said the courthouse needs were a high priority.

Chairman Chamberlain called for a short break at 5:45 pm.

Chairman Chamberlain reconvened the meeting at 5:50 pm.

11. PUBLIC COMMENT PERIOD

Chairman Chamberlain opened the Public Comment Period to entertain comments from any citizens that might wish to address the Board. The following citizens came forward:

- Dale Wagstaff discussed the proposed policy regarding access to private property. Mr. Wagstaff said the issue for the landowners pertained more to damage as opposed to unauthorized entry. Mr. Wagstaff said a solution might be to reduce funding in the amount of any damages caused.
- Major Tim Bost from the Rowan County Sheriff’s Department pointed out that the Sheriff’s Department would need additional bailiffs for any additional courtrooms. Major Bost asked the Board to consider the proximity of any new courtrooms and explained that there is efficiency to having bailiffs in the same building.
- Carl Ford discussed property rights and personal situations he had experienced with his property as well as his business property. Mr. Ford referred to economic development and questioned the City of Salisbury’s ability to extend the resources of the Yadkin River much farther.

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

12. CLOSED SESSION

Commissioner Barber moved for the Board to enter Closed Session pursuant to North Carolina General Statutes Section 143-318.11(a)(1) for the purposes of receiving information made confidential by the laws of North Carolina to protect the safety of law enforcement officers. The information to be discussed includes details relating to equipment used in ongoing criminal investigations. The motion was seconded by Commissioner Mitchell.

Commissioner Sides asked County Attorney Jay Dees if the Closed Session was a “necessary evil for this Board” and Mr. Dees said yes as it dealt with very sensitive information, not only with protecting law enforcement officers’ safety but it also involved equipment that was part of ongoing criminal investigations.

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

The Board entered Closed Session at 6:00 pm.

The Board returned to Open Session at 6:18 pm.

Commissioner Mitchell moved to allow the Sheriff to accept possession of the vehicle described in Closed Session. The motion was seconded by Commissioner Barber and carried on a 4-1 vote with Commissioner Sides dissenting.

Chairman Chamberlain asked if the Board wanted to discuss a policy in relations to this subject. Commissioner Mitchell responded that he would like to see policies from other counties regarding law enforcement accepting vehicles purchased with drug seizure funds.

13. ADJOURNMENT

Commissioner Mitchell moved, Commissioner Barber seconded and the vote to adjourn the meeting at 6:21 pm passed unanimously.

Respectfully Submitted,

Carolyn Athey
Clerk to the Board