

**MINUTES OF THE MEETING OF THE  
ROWAN COUNTY BOARD OF COMMISSIONERS  
April 16, 2007 – 7:00 PM  
J. NEWTON COHEN, SR. ROOM, ADMINISTRATION BUILDING**

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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 7:00 pm.

Chairman Chamberlain called for a moment of silence in memory of the students who had lost their lives earlier in the day to a gunman at Virginia Tech.

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

**CONSIDER APPROVAL OF THE MINUTES**

Commissioner Sides moved, Commissioner Mitchell seconded and the vote to approve the minutes of the February 21-23, 2007 and April 2, 2007 minutes passed unanimously.

**CONSIDER ADDITIONS TO THE AGENDA**

Commissioner Sides moved that item #4 and item #5 be reversed in the order of discussion. Commissioner Hall seconded the motion. The motion failed 2-3 with Commissioners Chamberlain, Barber and Mitchell dissenting.

**CONSIDER DELETIONS FROM THE AGENDA**

There were no deletions from the agenda.

**CONSIDER APPROVAL OF THE AGENDA**

Commissioner Mitchell moved, Commissioner Barber seconded and the vote to approve the agenda passed unanimously.

## **1. CONSIDER APPROVAL OF CONSENT AGENDA**

Commissioner Sides moved for approval of the Consent Agenda. The motion was seconded by Commissioner Barber.

Before calling for the vote, Chairman Chamberlain referred to item #E, the Proclamation for Let's Get Connected Day. Chairman Chamberlain recognized those in attendance from the Salisbury Rowan Human Relations Council by asking them to stand. Chairman Chamberlain extended a welcome to the members present.

Chairman Chamberlain referred to item #H, the Proclamation Declaring May 3, 2007 as National Day of Prayer. Chairman Chamberlain said the Proclamation was "very relevant" after the shooting of the students at Virginia Tech.

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

The Consent Agenda consisted of the following items:

- A. Set Public Hearing for May 7, 2007 for Majority Petition for Song Bird Lane
- B. Set Public Hearing for May 7, 2007 for Address Correction on Chippewa Trail
- C. Set Public Hearing for May 7, 2007 for ZTA 02-07
- D. Approval of Proclamation for May 19, 2007 as Let's Get Connected Day
- E. Set Public Hearing for May 7, 2007 for Possible Adoption of Fire Prevention Code Ordinance
- F. Approval of Proclamation Declaring May 6-12, 2007 as Law Enforcement Week
- G. Approval of Proclamation Declaring May 6-12, 2007 as Shield-A-Badge With Prayer Awareness Month
- H. Approval of Proclamation Declaring May 3, 2007 as the National Day of Prayer
- I. Approval for Sheriff's Department to Apply for Funding from the Justice Assistance Grant & Bulletproof Vest Partnership Grant
- J. Approval of Proclamation Declaring the Month of May as Older Americans Month

## **2. PUBLIC COMMENT PERIOD**

Chairman Chamberlain opened the Public Comment Period to entertain comments from any citizens who wished to address the Board. The following individuals spoke:

- Paul Conklin, Jr. read a prepared statement and said he loved his family, country and motorcycle. Mr. Conklin said he was a local veteran and he said he wished he could help the Board to realize how intense most military jobs and friendships are. Mr. Conklin said riding and customizing motorcycles together fills a gap for many veterans. Mr. Conklin discussed

the “Smoke Out” event and said the veterans who attend want to ride, look at bikes and be entertained at times. Mr. Conklin said some people tend to carry entertainment further than most but that he didn’t condone those actions. Mr. Conklin discussed his oath to protect the United States and he asked the Board members whom they had sworn to represent. Mr. Conklin said if the Board voted to break the contract for the “Smoke Out” event, there would be many to join in a lawsuit to fight the County that would ultimately cost the County hundreds of thousands of dollars in the future. Mr. Conklin said “Smoke Out” had declared not to return to Salisbury after this year.

- Carl Ford said the contract for “Smoke Out” was with the Fair Association and that it could be broken. Mr. Ford also said he didn’t feel the contract the Fair Association had with the County was “exactly right”. Mr. Ford said he was concerned with future sales of alcohol on county property. Mr. Ford said alcohol is already sold across the county on private property and through private entities and that he didn’t feel it should be sold on county property. Mr. Ford discussed the liability issue and asked how people would feel if someone was killed after consuming alcohol on county property.
- Greg Scheuer said he sponsors the “Smoke Out” rally. Mr. Scheuer expressed his appreciation to those who had supported the event through the years. Mr. Scheuer said he didn’t realize the event had offended anyone until he read about it in the Salisbury Post. Mr. Scheuer said he had received hundreds of emails from those in support of the event but only 3 negative emails. Mr. Scheuer praised the community’s law enforcement, EMT’s and fire departments. Mr. Scheuer said, “When we leave we’ll leave behind some great years” and “I just want to say thank you.”
- James Rollans thanked the Board for the moment of silence at the beginning of the meeting in remembrance of the students at Virginia Tech. Mr. Rollans asked the Board to think big and long-term pertaining to planning for the County. Mr. Rollans said that the fairgrounds, Summit Corporate Center and the stadium were important but that the Board should ponder these issues before making any decisions. Mr. Rollans said he would like for the government’s role in the business world to be limited. Mr. Rollans expressed hope that the County would exit from the real estate business. Mr. Rollans referred to a change in the makeup of the Land Use Plan Steering Committee. Mr. Rollans said if the change was due to widening the scope of the proposed plan to include the entirety of the County, then he felt the change of applicant eligibility was commendable. Mr. Rollans said if the change was proposed due to a partisan reason, or to include people who have special interests, or if it was an attempt to derail the program then he felt the proposed change should be discarded.

### **3. PUBLIC HEARING FOR MAJORITY PETITION FOR SWANDELL FARM ROAD**

Fredda Greer of the Rowan County Planning Department presented the Staff report regarding a majority petition for an unnamed road running north off the 9900 block of NC 801 Highway. Ms. Greer explained that as subdivision of property occurred, and with the addition of and plans for new structures along the current easement, it is necessary to name the road. A completed petition was submitted for the name of Swandell Farm Road and Staff recommended approval.

Chairman Chamberlain opened the public hearing to entertain citizen input regarding the proposed road name of Swandell Farm Road.

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

Commissioner Mitchell moved, Commissioner Barber seconded and the vote to approve the road name of Swandell Farm Road passed unanimously.

### **4. DISCUSSION OF “SMOKEOUT” EVENT**

Chairman Chamberlain said the Board had provided County Attorney Jay Dees with instructions at the April 2, 2007 Commission meeting. Chairman Chamberlain said he hoped the Board would make a final decision regarding “Smoke Out” tonight.

Mr. Dees recalled that the Board had requested to review a possible third option pertaining to the “Smoke Out” event, which was to collect as much information as possible regarding insurance coverage and to create “relationship and liability documents” where the Fair Association would protect the County’s liability financially, as well as the event promoter, Flat Black, Inc. (FBI). Mr. Dees said he had provided the Board with documents provided from FBI, which included a declaration page for coverage for 2007, as well as an Indemnity Agreement between FBI and Rowan County that would indemnify the County as to any damages in 2007, as well as attorney’s fees if the County had to defend a claim. Mr. Dees said he had requested an opinion from Kathie Russell, attorney for FBI, that the indemnity agreement was valid and enforceable. Mr. Dees said Ms. Russell’s response had been provided to the Board. Mr. Dees said he had also given the Board a declaration page of insurance for the Fair Association for 2007 that provides general liability coverage and names the County as an additional insured under the policy. Mr. Dees said the insurance manager for FBI indicated that depending on the Board’s decision tonight, the insurance company would add the County as an additional insured to the FBI policy if requested to do so.

Mr. Dees said he had presented the Board tonight with a letter received from Attorney Doug Smith, who represents the Fair Association. Mr. Dees said the

letter explains the position of the Fair Association as to two issues the Commissioners wished to resolve:

1. Possible claim from 2004 that is currently being reviewed by the Fair Association's underwriter. Mr. Dees said if the underwriter does not provide coverage for the 2004 event, the Fair Association was proposing to fully indemnify the County as to the damages that may arise from the 2004 event.
2. As to the 2007 event, Mr. Dees said the Fair Association had provided a declaration page for general liability coverage. Mr. Dees said the Fair Association also proposed to provide specific coverage relating to alcohol by Friday, April 20, 2007. Mr. Dees said he understood that the policy would be in excess of the insurance that is provided by the promoter.

Mr. Dees said based on instructions from the last Commission meeting, the documents assembled basically addressed the liability issues. Mr. Dees said while he never provided guarantees, the documents fulfilled what he felt was commercially reasonable. Mr. Dees said he could not guarantee whether the County would have to defend or assert its rights under the agreements. Mr. Dees said FBI had agreed to indemnify the County as to any legal fees that might be involved for asserting the County's rights under the documents. Mr. Dees said the Fair Association's indemnity for 2004 included the same language. Mr. Dees said the documents were generated for the Board's consideration.

Commissioner Mitchell referred to the decision facing the Board as being in the top 5 of the more difficult issues that he, while serving as a County Commissioner, had dealt with. Commissioner Mitchell said based on the information the County Attorney had just provided, he moved that the Smokeout event be allowed to occur based on its current contract. The motion was seconded by Commissioner Barber.

Commissioner Hall said she did not see copies of the proof of insurance from Mr. Smith. Mr. Dees said proof of the general liability policies had been provided from FBI and from the Fair Association. Mr. Dees said what the Fair Association had not provided but anticipated to provide, is proof of insurance by April 20<sup>th</sup> for the alcohol issue. Mr. Dees said the proof of insurance policy would be separate and would need to be in place. Mr. Dees said he would not recommend the Board taking any action in the absence of the proof being provided. Mr. Dees said depending on how the Board voted, any approval would be contingent upon the Fair Association providing the proof of insurance policy.

Commissioner Hall asked who had established the insurance coverage figures and Mr. Dees responded that the amounts listed are generally acceptable in the commercial area.

Commissioner Hall expressed concern that the County's Risk Manager had not been consulted regarding the insurance coverage amounts. Commissioner Hall

discussed the large crowd that was anticipated for the Smoke Out event, mixed with alcohol on county-owned property. Commissioner Hall referred to the individual that had been hurt during "Smoke Out" 2004 and said she felt the Board should put safety first with public-owned property. Commissioner Hall said she would not vote for alcohol at "Smoke Out" and that the Board had a responsibility to take a stand, no matter how difficult.

Commissioner Sides discussed the Mass Gatherings Ordinance for Rowan County. Commissioner Sides said the ordinance requires an application to be submitted to the Health Department Director anytime that 1,000 or more individuals would be at one location for 6 hours or more. Commissioner Sides said he would like for Staff to review the Mass Gatherings Ordinance. Commissioner Sides said the ordinance could require a \$1 million policy and he asked if it would be covered under the indemnification guarantee and the policy that had been submitted.

Commissioner Sides referred to an email from Attorney Kathie Russell, in which she had given the Board a deadline of April 10<sup>th</sup> for a response as to whether the event would be allowed as per the current contract, or the venue would be moved. Commissioner Sides pointed out that the current date was April 16. Commissioner Sides said he felt that Ms. Russell had learned new information since the deadline had passed and the venue had not been changed. Commissioner Sides read statements from an email that Ms. Russell had sent the Board earlier in the day and where she had specifically addressed the Chairman. Commissioner Sides said people had publicly stated that they would not allow alcohol to be sold at "Smoke Out" but those people had now changed their minds. Commissioner Sides quoted several Biblical scriptures and stated that in his years of service as a County Commissioner, his every vote had been to serve the greater interests of the citizens of Rowan County. Commissioner Sides said his votes are based on what he believes to be morally and spiritually right. Commissioner Sides asked the public to judge whether the Commissioners should endorse the sale and consumption of alcohol on county-owned property. As Commissioner Sides provided numerous statistics regarding alcohol consumption, Chairman Chamberlain gaveled Commissioner Sides and thanked him for the information.

Commissioner Barber said the issue was not about how he felt pertaining to the sale, possession or consumption of alcoholic beverages on county property. Commissioner Barber said the issue was more about consistency with various groups who lease property from Rowan County and who allow the consumption of alcohol. Commissioner Barber said at the last Commission meeting, the Board had found a path-forward for Rowan Museum, who contracts that particular county property to others that serve alcohol at their functions. Commissioner Barber said at the last meeting the Board had also sought a path-forward for the Fair Association for indemnification from any liabilities for the 2007 "Smoke Out" event and the 2004 demand letter. Commissioner Barber

said many people would consider it hypocritical to have different sets of rules for different groups. Commissioner Barber said a path-forward that would allow the Fair Association to hold the “last event” and for the County to be indemnified would be a fair and consistent position for both the Fair Association and Rowan Museum.

Commissioner Mitchell said Commissioner Sides had made excellent points pertaining to alcohol and its destruction of society. Commissioner Mitchell said unfortunately the Board “can’t legislate morality.” Commissioner Mitchell said he didn’t think alcohol should be consumed on county property, which was a problem he was willing to fix and he agreed that it should be stopped. Commissioner Mitchell said the Board would have the opportunity on the next agenda item to correct the problem. Commissioner Mitchell said he felt that those operating in good faith, partaking in activities that are not illegal, should be allowed to finish out their current contract. Commissioner Mitchell said, “Banning the event this year will not solve the world’s and the county’s ills.” Commissioner Mitchell said while “Smoke Out” may seem vile to some, it is acceptable and enjoyable to others. Commissioner Mitchell said he was not willing to face the financial ramifications of voting against the current contract for “Smoke Out”. Commissioner Mitchell said the Board had made it clear that it did not want alcohol to be sold on county-owned property. Commissioner Mitchell said, “Let’s put this issue behind us and move on.” Commissioner Mitchell said the Commissioners would not be able to solve the problem being discussed. Commissioner Mitchell said the event was not worth the time, energy or further destruction. Commissioner Mitchell said his motion allows the contract to occur as it is with indemnities that should be forthcoming from the fairgrounds. Commissioner Mitchell said as far as the Mass Gatherings Ordinance, he did not intend for his motion to relieve the event from those obligations.

Chairman Chamberlain said politics and religion are tough issues. Chairman Chamberlain said he personally did not see anything more morally right with breaking a contract than being upset with someone drinking alcohol. Chairman Chamberlain emphasized for the record, and to Attorney Doug Smith and members of the Fair Association, that by 5:00 pm on April 20<sup>th</sup>, if the indemnification was not received by the County Manager’s Office, “then it’s over for this year.” Chairman Chamberlain asked if this was understood and Mr. Smith and the members of the Fair Association nodded in affirmation. Chairman Chamberlain discussed his personal past and said he had done things he was not proud of, including alcohol consumption. Chairman Chamberlain said he had publicly stated at the Board’s Planning Retreat that he wanted to allow the Fair Association to fulfill their contract for the “Smoke Out” event. Chairman Chamberlain said since that time he had also publicly stated that if the event went on, it would go on without alcohol. Chairman Chamberlain said he had been asked what had caused him to change his mind and he had responded, “Nothing happened to change my mind.” Chairman Chamberlain said he had given the issue a lot of thought and prayer, and that if he had his personal way,

“not only would you not have alcohol there this year, you would not have the event there this year.” Chairman Chamberlain said he was elected to represent the people and not elected to impose his personal beliefs. Chairman Chamberlain said the Fair Association had a contract with the promoters of “Smoke Out” and after this year, “they’re gone.” Chairman Chamberlain pointed out that 2007 would be the 8<sup>th</sup> year for “Smoke Out” and he asked where the County Manager, County Attorney and the insurers were in 1994 when the issue should have been taken care of. Chairman Chamberlain finished by saying he loved Commissioner Sides and that he believed what Commissioner Sides had said. Chairman Chamberlain said Commissioner Sides had expressed his personal convictions and that he would not be angry with Commissioner Sides because of it.

Commissioner Sides said the issue was not about drinking alcohol but rather about money. Commissioner Sides referred to the U.S. Jaycees website and said he personally felt the Jaycees should get back to their “roots and find a better way to raise funds for all the good things they do.”

Upon being put to a vote, the motion on the floor passed 3-2 with Commissioners Sides and Hall dissenting.

Chairman Chamberlain stated that the issue is “done unless something happens on the 20<sup>th</sup>.”

Chairman Chamberlain called for a short break at 8:10 pm.

Chairman Chamberlain reconvened the meeting at 8:20 pm.

## **5. PUBLIC HEARING FOR PROPOSED TEXT AMENDMENTS TO ALCOHOLIC BEVERAGES ORDINANCE**

Chairman Chamberlain said he would allow comments as related to the action taken by the Board in agenda item #4.

Chairman Chamberlain then opened the public hearing regarding the proposed text amendments to the Alcoholic Beverages Ordinance.

County Attorney Jay Dees said the proposed text in the agenda packets was based on conversations from the April 2, 2007 Commission Meeting. Mr. Dees provided several changes for consideration and then at Commissioner Hall’s request, Mr. Dees read the suggested text in its entirety as follows:

*Sec. 3-2. Consumption, possession, and sale on county property prohibited.  
The sale, possession and/or consumption of any alcoholic beverages on property exclusively owned, leased or occupied by the county is prohibited.*

Chairman Chamberlain opened the floor for any citizens who wished to address the Board on the issue. The following citizens came forward:

- Lois Elliott from China Grove said she was in favor of the ordinance and she thanked the Board for changing the text to prohibit alcohol on county owned property.
- Bill Ward read from information he had printed from the Internet regarding the “Smoke Out” event. Mr. Ward then read a prepared statement regarding the event. Mr. Ward said he had looked at several “biker websites” that referenced “Smoke Out” and he had found links to what he described as “debasing pornography.” Mr. Ward asked where security was during some of the activities described. Mr. Ward felt it highly irresponsible for Fair Staff and organizers of “Smoke Out” to release drunken bikers on the highways.

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

Commissioner Sides moved that the language in the ordinance be changed to read: ***The sale, possession and/or consumption of any alcoholic beverages on property owned, leased or occupied by the county is prohibited*** - leaving out the word exclusively. The motion was seconded by Commissioner Hall.

Commissioner Barber questioned the effective date for the text and when the text would apply to events already scheduled at Rowan Museum.

Commissioner Sides responded that the answer to the dilemma was for Rowan Museum to take over ownership of the property, which he said was under negotiations.

Commissioner Barber said if the proposed text were approved, any scheduled events at the Museum would not be allowed to serve alcohol until the property was transferred.

Mr. Dees said when looking at ordinances and state statutes, the general rule is that they are not retroactive. Mr. Dees said there is a difference between pre-existing contracts and any contracts that would be let for rental agreements now. Mr. Dees said the ordinance would apply to any agreements made now. Mr. Dees said any agreements entered into prior to the ordinance text would be allowed to go forward. Mr. Dees said it was imperative to work on the transfer to clear up the issue.

Chairman Chamberlain said he had received a letter from the Rowan Museum Board agreeing to enter “serious negotiations” with the County for ownership of the property. Chairman Chamberlain said until a decision is made, the Museum would not issue any more contracts allowing alcohol to be served. Chairman

Chamberlain said any contracts that the Museum had entered into, would be honored. Chairman Chamberlain said if the transfer did not occur, the Board would need to hold another discussion on the matter.

Commissioner Mitchell said he supported allowing Rowan Museum to fulfill the current contracts until the transfer of ownership was clear. Commissioner Mitchell said if the transfer dragged on for any length of time, there should be a sunset where the policy would apply.

Commissioner Sides said the Museum had existing contracts that did not state whether alcohol would be served and he said he felt those contracts should not be allowed to serve alcohol. Commissioner Sides read from Article 20 of the Museum contract. Commissioner Sides said if the Board was going to pass the proposed text, he felt the scheduled events should not be allowed to serve alcohol if it was not specifically stated in their contracts.

Commissioner Mitchell asked how many current contracts were listed and how many were specified with alcohol. Commissioner Sides said nine (9) but that one of the events had already passed.

Chairman Chamberlain questioned if any of the contracts were undecided and Commissioner Sides said, "all but three of the others are undecided."

Commissioner Sides felt the Museum should be required to provide the same liability coverage as had been required of the Fair Association, as well as their licensees.

Mr. Dees said the requirement would be consistent with what had been stated by the Board.

Chairman Chamberlain summarized the discussion saying that as long as the County was in serious negotiations for ownership of the Museum building, the events that were already signed/scheduled and had indicated that alcohol would be served, would be allowed to continue. The contracts that do not specify if alcohol would be served would be events without alcohol. Chairman Chamberlain said the required insurance coverages would be uniform. Chairman Chamberlain said, "That's not a part of this motion but we're all clear on that, are we not?" Commissioner Sides said he would like to make one correction, "I'm not stating that any of the events be held with alcohol; I'm going to vote against that. If I can't get the deal I want, I want to get the best deal I can."

Commissioner Mitchell asked about the practicality of striking the word "exclusively" in the proposed text. Mr. Dees said the reason the word was included was due to discussions regarding the baseball stadium. Mr. Dees said within a reasonable amount of time, the stadium was the only place where

alcohol would still be available. Mr. Dees said the County was not the sole owner of the stadium.

Commissioner Sides said when looking at the existing contract with the stadium, the County could not stop the sale of alcohol since it was included in the lease. Commissioner Sides explained that he would like the word “exclusively” removed from the proposed text to stop the sale of alcohol at the stadium when the current lease expires.

Commissioner Sides repeated the motion on the floor as follows: Section 3.2 of the ordinance to read, ***The sale, possession and/or consumption of any alcoholic beverages on property owned, leased or occupied by the county is prohibited.*** Upon being put to a vote, the motion passed unanimously.

Commissioner Sides requested a legal opinion regarding any provision in county ordinances that prohibit the consumption of alcohol on ABC properties. Mr. Dees explained that the ABC Commission was “a creature of state statute.” After a brief discussion as to whether the County owned any of the ABC properties, Commissioner Sides requested that Mr. Dees research the issue.

## **6. CONSIDER APPROVAL OF PE-01-07 FOR RELAY FOR LIFE**

Planning & Development Director Ed Muire presented the Staff Report for the request from Relay for Life for a permit to exceed the County’s Noise Ordinance. Mr. Muire said the ordinance provides an opportunity to exceed amplified sound standards in the form of a Permit to Exceed (PE) when the event is open to the public. The event is the 9<sup>th</sup> Relay for Life event held at the Rowan County Fairgrounds and the 6<sup>th</sup> since the County’s Noise Ordinance was adopted.

Chairman Chamberlain opened the floor to entertain comments from any citizens who wished to address the Board and no citizens came forward.

Commissioner Mitchell moved, Commissioner Barber seconded and the vote to approve PE-01-07 for Relay for Life passed unanimously.

## **7. PRESENTATION OF CABARRUS-ROWAN METROPOLITAN PLANNING ORGANIZATION STREET APPENDIX & MAP**

Planning & Development Director Ed Muire explained that the information in the agenda packets was a culmination of approximately 2 years of work on behalf of the Metropolitan Planning Organization (MPO) and its member jurisdictions. Mr. Muire said the County previously had 3 Thoroughfare Plans and that with the formation of the MPO, the 3 plans were merged into one document. Mr. Muire said under the guidance of MPO Staff, and participation of MPO member jurisdictions, the focus on the plan as it will exist is comprehensive.

Mr. Muire discussed the street appendix in the staff report and said the Planning Board forwards a favorable recommendation to the Commissioners. Mr. Muire

said a favorable recommendation by the Commissioners would be sent to the MPO Technical Advisory Committee (TAC). Mr. Muire said Staff would use the document in the future for rezonings, conditional use permits, etc. Commissioner Barber pointed out that the proposed plans might never occur.

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

Mr. Muire introduced Phil Conrad, MPO Planner. Mr. Conrad explained the Resolution was to support the current construction on I-85 as a top priority. Mr. Conrad also discussed House Bill 292, which would evaluate the Yadkin River Bridge as a tolling project. Mr. Conrad said the TAC wanted to get the jurisdictions to support the Resolution to keep the momentum going in Raleigh as to the need for the project.

Commissioner Hall suggested changing the language of the Resolution, replacing “as soon as is feasibly possible” with “as the top transportation priority project”.

Commissioner Hall moved to replace the terminology as soon as is feasibly possible with as the top transportation priority project. Commissioner Hall moved to accept the Resolution with the change. Commissioner Barber seconded and the motion carried unanimously.

Upon being put to a vote, the motion on the floor for adoption of the map and the appendix passed unanimously.

## **8. DISCUSSION REGARDING LAND USE PLAN STEERING COMMITTEE**

Planning & Development Director Ed Muire recalled the Board’s discussion pertaining to the requirements for the makeup of the Land Use Plan (LUP) Steering Committee. The formation of the Committee would require citizens to own property and reside in the particular areas of interest. Mr. Muire said the intentions were not to exclude anyone from participating. Mr. Muire said he had fully expected the County to have success in one area and as the County moved towards the eastern portion of the County, citizens from other areas would have the opportunity to serve. Mr. Muire said one of the main problems for the failure of the previous LUP process was due to the same people traveling from other areas to attend the forums.

County Attorney Jay Dees said a constitutional issue had been raised in regards to the property ownership requirement. Mr. Dees there was a question of whether the Committee would be an appointed Board, an appointed Steering Committee without any authority, or holding office. Mr. Dees said he would suggest that in order to eliminate any constitutional challenge without any further costs, that the Board remove the property ownership requirement.

Chairman Chamberlain said for the record that he did not feel there was a constitutional issue. Chairman Chamberlain said one or two people had raised the issue as constitutional and seemed to be offended by the term of property ownership. Chairman Chamberlain said if people are offended, the Board could take out the property ownership requirement. Chairman Chamberlain said he would not vote to remove the residency requirement.

Commissioner Hall questioned Mr. Dees regarding residency requirements. Mr. Dees said a driver's license and voter's registration are two primary sources for proof of residency.

Commissioner Sides asked if the Steering Committee was a public body that would be subject to the Open Meetings law and Mr. Dees said yes.

Commissioner Sides discussed the Salisbury Post article and the Notice that had been published regarding solicitation of applicants to serve on the LUP Steering Committee. Commissioner Sides also expressed concern with the residency requirement. Commissioner Sides asked if there could be a waiver to allow someone to serve if they own property in the area of interest. Chairman Chamberlain responded that he didn't feel there should be a waiver. Chairman Chamberlain provided a personal example of owning property in the City of Salisbury and pointed out that he was not allowed to vote on matters regarding the City nor could he serve on any of their committees.

Mr. Muire suggested that it might be most appropriate to revise the Notice to drop the residency and property ownership requirements and see how many additional applications would be received. Mr. Muire said the makeup of the Committee would be at the Board's discretion. Mr. Muire said he would like to revise and submit the Notice to the Board and add the issue to the May 7, 2007 agenda for debate.

Chairman Chamberlain asked Carolyn Athey, Clerk to the Board, how many applications had been received thus far and Ms. Athey said approximately 39.

Chairman Chamberlain said he preferred for the Board to debate the issue now in order to avoid slowing down the process.

Commissioner Sides said he would accept Mr. Muire's recommendation to leave out the residency and property ownership requirements and to readvertise. Commissioner Sides said he had reviewed the applications received thus far and some very qualified individuals had applied who should be appointed to the Committee. Commissioner Sides said he did not wish to exclude anyone who didn't meet the deadline.

Chairman Chamberlain said those that had been eliminated were those that did not live in the area "that's going to be planned."

Chairman Chamberlain opened the floor for a motion to settle the disagreement.

Mr. Muire requested that the motion include a deadline for submittal of the applications.

Commissioner Hall also suggested that the Board clarify that those who have already submitted applications should not have to resubmit.

Commissioner Mitchell moved that a new Notice be run with the changes to delete the property ownership requirement and to request that applicants live or reside in the township being studied.

Commissioner Hall said Mr. Muire had recommended striking both the property ownership and residency requirements.

Commissioner Mitchell said his motion was based on the original recommendation of the County Attorney. Commissioner Mitchell said he did not feel that someone from the opposite end of the County should be able to make decisions regarding what should happen on the other side of the County based on their personal beliefs. Commissioner Mitchell felt the Steering Committee should be composed of citizens from the particular area of interest. Commissioner Mitchell said the forums should be open to anyone to share their opinions but that he felt any recommendations should come from the Steering Committee.

Commissioner Sides said he felt there should be no residency requirements because the plan would eventually become a countywide LUP plan.

The motion on the floor was seconded by Commissioner Barber and passed 4-1 with Commissioner Sides dissenting.

By consensus, the Board agreed that the application deadline would be 5:00 pm on May 8, 2007 with appointments to the Committee made during the May 21, 2007 Commission Meeting.

Commissioner Mitchell questioned the selection process and Chairman Chamberlain said the Board could decide on the selection process and handle the appointments at the May 21, 2007 meeting.

## **9. DISCUSSION REGARDING ROWAN COUNTY WELL PERMITTING PROGRAM**

Health Department Director Leonard Wood and Environmental Health Supervisor Lynn Aldridge were present to discuss the Well Permitting Program. Mr. Wood stated that the Board of Health had approved the Well Program to be effective on

July 1, 2007 and that he was requesting that the Commissioners set a fee of \$225 per well permit.

Mr. Wood explained that the General Assembly had passed a bill requiring all counties in North Carolina to adopt statewide rules for well permitting inspections. Mr. Wood added that if a rule were passed by April 30, 2007, there would be \$60,000 in seed money available to the County. Mr. Wood estimated the costs for the first year at approximately \$100,000. Mr. Wood said the department would earn approximately \$90,000 if the fee was approved at \$225 per well, per permit and based on 400 to 450 permits.

Mr. Wood asked the Commissioners to consider approval of the permit fee. Mr. Wood said the options for the Board were not to have a fee, implement the fee effective July 1, 2007 or wait until July 1, 2008 to implement a fee.

Commissioner Mitchell questioned the cost of running the program. Mr. Aldridge explained the costs included are printing, courier services, lab kits and a full-time position. Mr. Aldridge estimated the costs at approximately \$101,000 per year.

Mr. Wood said the department was not asking for a position for the program as was stated in the information contained in the agenda packets.

Commissioner Mitchell pointed out that the program was a state mandate.

In response to an inquiry by Commissioner Mitchell, Mr. Aldridge explained that the construction requirements in the rules had been in place for 20 years, and all that had been added are the permitting and sampling requirements.

Commissioner Mitchell asked if the Health Board had held public hearings before making a recommendation and he also questioned any public input at the hearings. Mr. Aldridge replied that one state representative and six well drillers had attended the public hearing. Mr. Aldridge added that the only major concern expressed pertained to the amount of time involved in waiting for an inspection. Mr. Aldridge assured the Board that he felt staff could manage inspections in a timely fashion but that he would not hesitate to request another position if needed.

Commissioner Mitchell noted that this is an unfunded mandate and he felt the only option was the fee. He also pointed out that the average and median fees were higher than what the County was asked to approve.

In response to Commissioner Hall's inquiry, Mr. Aldridge explained that a portion of the \$60,000 in seed money would go towards the purchase of cameras. Mr. Wood added that \$12,000 would be used towards the equipment and for staff support needed to maintain the equipment.

Commissioner Sides expressed concern for dealing with private wells. Commissioner Sides asked if the testing would be a one-time bacterial test and also he also inquired about a chlorine system and notification to property owners. Mr. Aldridge responded that the test would be a one-time test and he said if the test fails, staff is required to notify the property owner and the state of the results.

Commissioner Sides asked Mr. Aldridge if he was aware of any future tests that might be required for private wells and Mr. Aldridge said no.

Commissioner Sides inquired as to why only 40 counties had responded to a survey submitted by staff and Mr. Aldridge answered that the survey was sent to all 100 counties but focused on the counties closest to Rowan.

Commissioner Sides stated that he would vote no to the request due to the intrusion and regulations on private property.

Commissioner Mitchell moved for approval of the well rules and the proposed fee. Commissioner Barber seconded and the motion passed 4-1 with Commissioner Sides dissenting.

Chairman Chamberlain called for a short break at 9:40 pm.

Chairman Chamberlain reconvened the meeting at 9:50 pm.

#### **10. CONSIDER APPLICATION FOR AMBULANCE FRANCHISE REQUEST FROM NUCARE CAROLINA AMBULANCE, INC.**

Emergency Services (EMS) Director Frank Thomason and EMS Division Manager Beth Connell presented a request from NuCare Carolina Ambulance, Inc. for an ambulance franchise. Mr. Thomason said that NuCare has a contract with Hefner Veterans Administration Hospital (VA) to provide basic and advanced life support medical transportation for VA patients. Mr. Thomason reported that the North Carolina Office of Emergency Medical Services (OEMS) recently ruled that NuCare must have a franchise and be added to the Rowan County Medical Services System Plan. Without a franchise, NuCare cannot meet all of the terms of their VA contract. Mr. Thomason added that this application would allow NuCare to continue their contract with the VA and also provide additional services to the County as disaster backup.

In response to queries from Chairman Chamberlain and Commissioner Mitchell, Mr. Thomason stated that NuCare would not be able to fulfill their contractual obligations with the VA if the Board did not approve the request. Mr. Thomason stated that if the Board approved the franchise, NuCare would be able to fulfill their obligations as well as provide additional services to the County and that there would be no additional liability to the County.

Ms. Connell added that if there were no contract, the VA would have to seek another provider, which could cause them to utilize Rowan County EMS. Ms. Connell said many trips made by NuCare are out of county and the out of county trips would cost the County time and resources.

Commissioner Sides inquired if the franchise was a year-to-year transaction and Mr. Thomason answered it was every three years and he reported that either party could cancel with 90 days written notice.

Commissioner Sides moved, Commissioner Hall seconded and the vote to approve the ambulance franchise passed unanimously.

## **11. SCHEDULED STATUS UPDATE FROM HISTORIC LANDMARKS COMMISSION**

As identified in the Historic Landmarks Commission (HLC) Moratorium, HLC member Rose LaCasse provided the Board with an update regarding the progress made since the February 19, 2007 update to the Commissioners.

Ms. LaCasse stated she was present to answer questions about the written report that had been provided to the Commissioners. She explained that at this time, the HLC had decided to set aside the idea of trying to become a Certified Local Government (CLG) because the state was asking for something that the Commissioners couldn't approve.

Commissioner Sides stated that he was pleased with the progress that had been made towards recognizing the rights of property owners and by eliminating the requirement that would designate property as historic without the owner consent, and allowing access to property without owner consent.

Chairman Chamberlain noted that the HLC had stated it was having trouble reaching a quorum for its meetings. He inquired if the Board would be amenable to accepting applications for appointments to the HLC to help meet the moratorium. He then instructed Ms. LaCasse to gather applications to submit to the Board.

Commissioner Hall expressed appreciation for the work of the HLC and for Ms. LaCasse's leadership.

## **12. UPDATE CONCERNING CITY OF SALISBURY'S SEDIMENTATION & FLOODING ISSUES**

Commissioner Barber stated that the Board approved the Relicensing Settlement Agreement (RSA) with Alcoa during the March 16, 2007 Commission Meeting. Commissioner Barber reported that there are still concerns with the City of Salisbury regarding sedimentation and flooding issues with the Yadkin River. Commissioner Barber recalled that in August 2006, the Board had passed a Resolution acknowledging the City's concerns. Commissioner Barber updated the Board regarding recent meetings between City Staff and himself, County

Attorney Jay Dees, County Manager William Cowan and Environmental Specialist Greg Greene. The purpose of the meetings was to see how the County might support the City's efforts. Commissioner Barber felt the City's concerns were validated and should be the concerns of the County as well. Commissioner Barber said the chance of a major flood was 1 in 10 each year, with 40,000 residents and businesses being impacted.

County Attorney Jay Dees stated there is a comment period with a May deadline that will allow the County to submit comment to Federal Electric Regulatory Commission (FERC) in support of certain issues related to sedimentation. Mr. Dees said it had been suggested that he be allowed to work with the City's utility attorney to draft a comment for the Commissioners review and possible submission to FERC. Mr. Dees said the comment letter would address the primary issues, including flooding issues, infrastructure protection and loss of a wastewater treatment system. Mr. Dees recommended that the Board allow him to draft the comment letter for review at the first meeting in May.

By consensus, the Board authorized Mr. Dees to draft the comment letter to be brought back to the Board for approval.

Commissioner Hall inquired if the Board's vote would hurt the City of Salisbury. Commissioner Barber responded that even though the County had signed the RSA, if FERC favored an agreement with the City, the RSA would be void. Commissioner Barber said FERC might not grant the City a license next year, in effect giving the City a one-year re-licensing agreement while the issue was reviewed. Commissioner Barber felt the City had a good case.

### **13. DISCUSSION REGARDING FAIRGROUNDS PROPERTY – HIGHEST & BEST USE OPTIONS**

Commissioner Barber recalled that at the Planning Retreat the Board discussed several items related to the fairgrounds property. Commissioner Barber said he had received a lot of feedback from citizens as to potential options for the fairgrounds property. Commissioner Barber said the document in the agenda packet was representative of the citizens' comments and suggestions.

As Commissioner Barber described the area, he asked Planning and Development Director Ed Muire to show a map of the site and the surrounding properties.

Commissioner Barber reviewed the recommendations that were listed in the agenda packet. Commissioner Barber said he was not requesting Board action at this time because he felt it was important to get the Land Use Plan Steering Committee in place before going forward with the project.

Chairman Chamberlain suggested that the Board review the information and discuss it at a later date.

Commissioner Sides said the property in the area had already reached its highest and best use, as it was market driven. Commissioner Sides stated that the County had received an offer for the fairgrounds property that he felt was ridiculously low. Commissioner Sides pointed out that the property was currently zoned agricultural and he stated that he would like for the Board to consider requesting that the property be rezoned to commercial in the near future.

#### **14. DISCUSSION REGARDING TELEVISIONING OF COMMISSION MEETINGS & UPFITTING OF MEETING CHAMBERS**

Chairman Chamberlain deferred to Commissioner Hall to discuss the possibility of upfitting the meeting chambers.

Commissioner Hall expressed hope for making the J. Newton Cohen, Sr. Room more accessible to the citizens and the public. Commissioner Hall thanked staff for their hard work and research on the project. Commissioner Hall explained that she and staff had visited several counties and municipalities to gather information on the issue. The recommendation is to upgrade the meeting room's audio/video as a package.

Commissioner Hall moved to start the Request for Proposals (RFP) process to upgrade the commission meeting room to enhance the audio, the video and then start the presentation station so that the meetings could be televised. Commissioner Sides seconded the motion.

Commissioner Sides felt that the Commissioners should use lapel microphones even though it would be an additional expense. Chairman Chamberlain agreed.

David Boling, Information Systems Director, stated that the microphones could be customized for each Commissioner due to each microphone being on a separate channel.

By consensus, the Board members agreed that their preference was for lapel microphones.

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

#### **15. CONSIDER APPROVAL OF BUDGET AMENDMENTS**

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

#### **16. COUNTY MANAGER'S MONTHLY ACTIVITY REPORT TO THE BOARD**

County Manager William Cowan referred to the minutes regarding the Town Creek Interceptor Project. Mr. Cowan said the project would be presented to the Board at a later time and he asked that the Board pay close attention to the issues listed.

Commissioner Barber mentioned the action items from the Board's annual Planning Retreat and he requested that Mr. Cowan track the action items in the monthly activity reports to the Board.

**17. ADJOURNMENT**

There being no further business to come before the Board, Commissioner Mitchell moved at 10:28 pm to adjourn the meeting. The motion was seconded by Commissioner Hall and passed unanimously.

Respectfully Submitted,

Carolyn Athey  
Clerk to the Board