

**MINUTES OF THE MEETING OF THE  
ROWAN COUNTY BOARD OF COMMISSIONERS  
November 5, 2007 – 4:00 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 4:00 pm.

Commissioner Sides 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 October 22, 2007 Commission Meeting passed unanimously.

**CONSIDER ADDITIONS TO THE AGENDA**

Commissioner Sides requested that the Board set a public hearing for November 19, 2007 regarding an amendment to the original bond amount for DDSM, LLC. Commissioner Sides moved to add the issue to the Consent Agenda. The motion was seconded by Commissioner Mitchell and passed unanimously.

Chairman Chamberlain added the issue as Consent Agenda item #F.

**CONSIDER DELETIONS FROM THE AGENDA**

There were no deletions from the agenda.

**CONSIDER APPROVAL OF THE AGENDA**

Commissioner Mitchell moved approval of the agenda. The motion was seconded by Commissioner Barber and carried unanimously.

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

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

The Consent Agenda consisted of the following items:

- A. Approval of Client Fee Schedules for Health Department
- B. Approval of Program Debt Write-Off for Health Department
- C. Set Public Hearing for November 19, 2007 for Consideration of Majority Petition for Montpelier Drive and for Unanimous Petitions for Foxfire Lane and Fairhill Lane
- D. Approval of Resolution Opposing Current State Laws Allowing Forced Annexation
- E. Approval of Request to Assist with DSS Christmas Party for Foster Children

## **2. PUBLIC COMMENT PERIOD**

Chairman Chamberlain opened the Public Comment Period to entertain comments from any citizens who wished to address the Board.

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

## **3. QUASI-JUDICIAL PUBLIC HEARING FOR PCUR 02-07 FOR REQUEST BY NELSON LINGLE**

Chairman Chamberlain read the Chairman's Speech (Exhibit A) and declared the public hearing for Parallel Conditional Use Rezoning (PCUR) 02-07 to be in session. Chairman Chamberlain said the hearing would focus on an application submitted by Nelson Lingle for his property located at the 2500 block of Sherrills Ford Road. The purpose of the application is to rezone the 3-acre tract from Rural Agricultural (RA) to Commercial, Business, Industrial (CBI) with a Conditional Use District to accommodate a mini-warehouse facility on Tax Parcel 459-237.

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

Chairman Chamberlain questioned Board members regarding any exparte communications pertaining to the application.

Commissioner Sides said he had communicated with an adjoining property owner approximately 5 to 6 weeks prior to the issue coming to the Board.

Commissioner Hall said she had received a call from Hank Hoffman; however, she stated that she had halted the conversation until she could receive a ruling from County Attorney Jay Dees as to whether she could discuss the matter. Commissioner Hall said Mr. Dees did provide a ruling and she had no further

contact with Mr. Hoffman until she visited the site. Commissioner Hall said when she visited the site, Mr. Hoffman walked over and introduced himself but no discussion took place.

Commissioner Barber said he had a “general conversation” approximately 3 weeks ago with a resident in the area who was not an adjoining property owner.

At this point, Chairman Chamberlain asked those in attendance to advise the Board if they felt any member had a conflict of interest based on the information that had been revealed regarding exparte communications. There was no response from the audience.

Senior Planner Shane Stewart provided the Board with a Checklist for Review of PCUR Cases (Exhibit B).

Mr. Stewart presented the Staff Report (Exhibit C) and also provided a power point presentation (Exhibit D) that depicted the applicant’s site, as well as the surrounding areas.

Using the power point presentation (Exhibit D), Mr. Stewart described the site in question as approximately a 3-acre parcel. Mr. Stewart pointed out several nearby subdivisions and businesses.

Mr. Stewart referred to the site plan contained in the Staff Report (Exhibit C) and said the site plan had been submitted by the applicant for a 15,000 square foot mini-warehouse facility. Mr. Stewart said the first building was approximately 10’ x 425’ and the adjoining building was 25’ x 425’.

Mr. Stewart said the site is currently vacant and had approximately 700 hardwood trees that were planted several years back.

Mr. Stewart said the request before the Board was for a 3-acre rezoning from RA to CBI with a site-specific plan. Mr. Stewart said there was a row of evergreen trees on the plan, which adjoined the Hoffman residence. The Planning Board was also recommending another row of evergreens.

Mr. Stewart said the site entrance would be paved approximately 50’ to comply with North Carolina Department of Transportation (DOT) standards and the remainder would be gravel.

Commissioner Sides asked if the DOT had issued a driveway permit and Mr. Stewart said yes.

Chairman Chamberlain asked Mr. Stewart to use the power point presentation (Exhibit D) to point out the location of Mr. Hoffman’s metal working shop and he

also inquired as to the size of Mr. Hoffman's shop. Mr. Stewart said he was uncertain but he estimated approximately 1500 square feet.

Mr. Stewart discussed the Zoning Criteria listed in the Staff Report (Exhibit C). Mr. Stewart said although there are no applicable adopted County plans, the property is located adjacent to a primary growth area identified in the Salisbury Vision 2020 Plan.

Mr. Stewart continued to highlight the Zoning Criteria in the Staff Report (Exhibit C). He used the power point presentation (Exhibit D) to point out various zonings in the area, as well as the surrounding businesses. One of the businesses, Kepley Grading, rezoned approximately 10 years ago, is located a few hundred feet west along Sherrills Ford Road, and is a grading contractor business. A 22-acre area (incorrectly listed as 4 acres in the Staff Report, Exhibit C), located directly behind the operation permits retail trade. Food Lion Distribution, Custom Glass and a third facility totaling over 665,000 square feet collectively, are the anchors in a 200+ acre light manufacturing zoning district located less than ½ mile on Harrison Road. Adjacent to the property on the west side, Henry Hoffman has an inconspicuous metal working shop that began operation in 1997 under Salisbury's zoning standards but appears to be in compliance with the county home-based business standards. Mr. Stewart said the applicant's father also owns the property that wraps around the Hoffman residence.

Mr. Stewart said Staff had obtained accident data from June 2004 through May 2007 from the DOT. The data revealed that approximately 19 accidents had occurred on the section of Sherrills Ford Road between Hurley School and Majolica Roads; from Majolica Road to Harrison Road was also approximately 19 accidents and from Harrison Road to Highway 150 was approximately 31 accidents. Mr. Stewart reported that the total number of accidents was 67, involving 128 vehicles. Mr. Stewart said the crash rate was not higher than the average for rural secondary roads in the County.

Mr. Stewart referred to page 5 of the Staff Report (Exhibit C) and discussed spot zoning. Mr. Stewart said spot zoning is not illegal in North Carolina if it is reasonable. Mr. Stewart said there are 4 tests to determine the validity of a request:

1. Size of the tract.
2. Compatibility with the Comprehensive Plan.
3. Impact of decision on landowner, immediate neighbors, and surrounding properties.
4. Relationship between new uses allowed versus those previously allowed.

Mr. Stewart reported that the Planning Board heard the request on September 24, 2007 and voted unanimously to approve the request subject to the following modification: Provide continuous evergreen screen from properties to the east.

Mr. Stewart urged the Commissioners to review the Checklist (Exhibit B) he had distributed at the beginning of the hearing and to also review the Statement of Consistency and Reasonableness contained in the Staff Report (Exhibit C).

Commissioner Sides asked if there was a requirement for the applicant to replace any of the existing trees that had died. Mr. Stewart said the applicant had planted the trees in question for harvesting purposes. Mr. Stewart said if the Board felt it was necessary, the Board could require that the trees be replaced for additional buffering as a condition for approval. Mr. Stewart said when he had visited the site, it appeared that most of the trees were dead. Mr. Stewart added that if the Board wished to require more of a buffer for separation and screening, he would urge the Board to consider a buffer of an opaque nature in terms of a fence or evergreens.

Commissioner Hall concurred with Mr. Stewart's analysis, stating that of the trees that were planted 1-½ years ago, she did not see any that were still living. Commissioner Hall pointed out that the County had also been in a severe drought situation that could have impacted the situation.

Commissioner Barber questioned the density of the trees/vegetation on the east side of the property versus the west. Mr. Stewart said the applicant had questioned the minimum buffer, which was 20 feet. Mr. Stewart said within the buffer the applicant was proposing a row of evergreen trees. Within the buffer from the property line to the building, there would only be natural vegetation, the evergreen trees and the security fence. Mr. Stewart used the power point presentation (Exhibit D) to point out where the evergreens would be located.

Chairman Chamberlain called the applicant, Nelson Lingle, forward.

Mr. Lingle provided the Board with a handout (Exhibit E), which contained a list of reasons as to why he felt he should build the ministorage center.

Chairman Chamberlain opened the floor to those wishing to provide evidence contrary to the request. The following individuals came forward:

- Sheila Hoffman of 2525 Sherrills Ford Road stated that Nelson Lingle is her brother. Ms. Hoffman said when their father had divided the land between his children, there was a verbal agreement that the property would be used for his children or grandchildren to build their homes upon. Ms. Hoffman said if she had known she might be living next to mini-storage facilities, she would have reconsidered building her house there.
- Charles Heilig said he resides in the Glenfield Subdivision. Mr. Heilig said he was opposed to the request as he saw no reason or need for it. Mr. Heilig said the 425' length of the storage building was the length of 1-½ football fields. Mr. Heilig said 20' of buffer was insufficient. Mr. Heilig said

lights would burn all night and there would be individuals with access to “come and go” at all hours of the night. Mr. Heilig said the property was in a residential neighborhood. Mr. Heilig said the side of the road where the Kepley’s are located is thought of as commercial and the other side is rural, agricultural and residential. Mr. Heilig said he had heard the “Kepley’s have people hauling dirt in there all hours of the night.” Mr. Heilig described a “permanent yard sale” located across from the proposed site and the potential for additional wrecks. Mr. Heilig said there were an additional 100 homes being built in Cameron Glen. Mr. Heilig said the request opened the door for spot zoning. Mr. Heilig said the current Land Use Plan Steering Committee would be a great help in planning for applications such as the one before the Board. Mr. Heilig mentioned a similar situation that had occurred in Raleigh and was been defeated due to the noise and lights. Mr. Heilig said the buffer would not help with the lights that would be located on 3 sides of the buildings. Mr. Heilig said the proposed use was “totally out of place.”

- Lori Hoffman of 2525 Sherrills Ford Road, said she and her 2-year old daughter lived with her parents, Henry and Sheila Hoffman. Ms. Hoffman said she would like to discuss the following 3 businesses mentioned in the Planning Board’s recommendation “and also by Nelson Lingle.”
  1. Food Lion Distribution Center and Customer Support Center
  2. Hoffman’s Metal Working Shop
  3. Kepley Grading

Ms. Hoffman referred to Food Lion and said in contrast to the property “on the screen” (power point presentation, Exhibit D); there are no houses directly next to the business. Ms. Hoffman said the Food Lion Warehouse contributes to the public good in that it has provided over 800 jobs and generated taxes. Ms. Hoffman said Food Lion had not met any opposition. Ms. Hoffman said the mini-warehouse would be for benefit of one individual and would actually harm the neighboring properties by decreasing property values. At this point, Ms. Hoffman presented a letter (Exhibit F) from John Robinson of Robinson Associates. Ms. Hoffman said the letter validates the fact that property values would be decreased and she read the letter aloud. Ms. Hoffman felt that since the mini-warehouse facility would detract from the neighboring properties, not contribute to the overall good and that it would benefit only one person, the Food Lion Distribution Center should not be considered as a valid precedent for the rezoning request.

Ms. Hoffman said her father’s business was established in 1993 at 655 Dunn’s Mountain Church Road after her father had consulted with all his neighbors and had met with no objection. Ms. Hoffman said in 1997 her parents built on the land given to them by her grandparents. Ms. Hoffman

said when her father built the shop at the new location, he had complied with “strict City guidelines for a home business.” Ms. Hoffman said no rezoning was required or needed. Ms. Hoffman said as noted in the Planning Report (Exhibit C) the business is described as an inconspicuous metal working shop; there are no signs at the road and it does not detract from the rural agricultural settings. Ms. Hoffman said her father had never received any complaints regarding the presence of his business.

Ms. Hoffman continued by providing the following various photographs (Exhibit G), which included her father’s business, Kepley’s Grading, her daughter’s backyard playground and a photograph of her daughter. Ms. Hoffman said her father had paid taxes for 14 years and there had never been any question that the shop was anything other than a home business.

Ms. Hoffman said the Kepley Grading rezoning was approved from RA to CBI and it was her opinion that Kepley Grading was the only business in the area that should be considered as precedent for the rezoning in the area.

Ms. Hoffman finished by saying she considered her parents home to be a safe place without the worry of people watching her and she referred to the visibility her daughter’s backyard playground (Exhibit G) from the location of the proposed mini-storage facilities.

- Hank Hoffman of 2525 Sherrills Ford Road clarified that his shop is 1,000 square feet and not 1,500 as estimated earlier in the meeting. Mr. Hoffman referred to the photograph of his shop (Exhibit G) and noted that the shed and the building behind the business were not attached. Mr. Hoffman said when he started his business he had to deal with the City due to being located within its extraterritorial jurisdiction (ETJ). Mr. Hoffman said at the time, he could only use 500 square feet of the building; however, in 1999 that decision was rescinded and he was allowed to use the full 1,000 square feet. Mr. Hoffman expressed his belief in the right for an individual to do what he wished on his property but not at the expense of the adjoining neighbors of the area in question. Mr. Hoffman said if Mr. Lingle were allowed to build the mini-storage facilities, he would be breaking a verbal agreement between Terry Lingle and his children to use the land only for building homes. Mr. Hoffman said the Lingle land had been in the family for over 80 years. Mr. Hoffman said none of the people who live on the land through the “original Mr. Lingle” are in favor of the request. Mr. Hoffman asked for a show of hands from those in the audience representing the properties he had referred to as “Lingle land.” (Approximately 6 hands were raised). Mr. Hoffman asked for a show of hands from those living on the land that were opposed to the mini-storage facilities. (Approximately 6 hands were raised). Mr. Hoffman

said only one individual, Nelson Lingle, was in favor of the request. Mr. Hoffman said Mr. Lingle lived in Mount Ulla and not next door to the site of the proposed facilities. Mr. Hoffman said the facilities would cause a loss of privacy for surrounding landowners. Mr. Hoffman said those who utilized the facilities would see property such as lawn mowers, tractors, boats, motorcycles and other items. Mr. Hoffman said the rural surroundings would be lost.

Mr. Hoffman then distributed a handout (Exhibit H), which was the report from Planning Staff. Mr. Hoffman read the highlighted section on the middle of page 2. Mr. Hoffman felt this section of the report spoke in opposition to the request.

Mr. Hoffman said the adjoining property owners would be subjected to people accessing the mini-storage facilities, which could create noise 24 hours per day. Mr. Hoffman said security lighting would be on all night and could affect the ability of adjoining property owners to sleep.

Mr. Hoffman read a portion of the highlighted section at the bottom of page 3 in the report (Exhibit H). Commissioner Mitchell noted that the Staff Report (Exhibit C) read differently than what Mr. Hoffman had just read. Mr. Stewart explained that the change in the language for the Staff Report (Exhibit C) occurred at the Board of Commissioners level when the applicant said motion detection lighting would be the only type of lights he would have.

Mr. Hoffman said his house has 3 bedrooms that would face the mini-storage facilities and that he was the property owner who stood to lose the most.

Mr. Hoffman referred to the last sentence on page 4 of the report (Exhibit H) and asked for show of hands from those in the audience that were opposed to the request. Chairman Chamberlain interjected and said when those in the audience raised their hands to demonstrate their opposition, there would be no need for them to be redundant by addressing the Board to state they were opposed to the rezoning. Mr. Hoffman said he would reserve the right to ask the question later because he wanted the Board to know how many people were present that were opposed to the request.

Mr. Hoffman said one common concern from those in opposition to the request was the spot zoning precedent.

Mr. Hoffman reviewed the highlighted section at the bottom of page 1 in the report (Exhibit H), which he felt spoke in his favor.

Mr. Hoffman referred to page 2 of the report (Exhibit H) and read several from 3 sections he had highlighted.

Mr. Hoffman called for a show of hands from those in attendance that had signed a petition against the rezoning; approximately 6 people raised their hands. Mr. Hoffman presented the Board with the petition (Exhibit I), which he said contained 85 signatures. Mr. Hoffman pointed out that one man signed the petition for each of his 4 properties. Mr. Hoffman said he understood petitions were questionable due to the burden of proof. Mr. Hoffman presented the Board with a map (Exhibit J) and said he had highlighted each of the residences of those who had signed the petition (Exhibit I). Mr. Hoffman referred to the map (Exhibit J) and discussed an address correction from 301 to 303 Forest Drive in the County's database for Alan Hines.

Mr. Hoffman felt placement of two (2) 425' buildings 20' from his property line was not reasonable. Mr. Hoffman said Mr. Lingle's property was 250' wide and that Mr. Lingle had planted 700 hardwood trees on the other side of the property – 52% of the trees were dead because Mr. Lingle had not watered them once in 1 ½ years. Mr. Hoffman asked how Mr. Lingle would maintain screening when there were no provisions for water on the property. Mr. Hoffman said the plan called for planting the screening 2' from the Hoffman property. Mr. Hoffman said if the screening flourished, he would have a maintenance problem in a couple of years as he would have to trim around the screening and eventually trim the screening itself. Mr. Hoffman said the screening was not reasonable since Mr. Lingle would not have water on the property.

Mr. Hoffman referred to Attachment B of the Staff Report (Exhibit C) and discussed the drive that had been in place for 10 years. Mr. Hoffman said the drive was illegal as it was put in without permits and culverts. Mr. Hoffman said he did not see how an illegal drive shines favorably on the decision.

Mr. Hoffman said, "I'm not saying let's change the plan. I'm saying this is a poor plan that has made it through the Planning Staff and the Planning Board." Mr. Hoffman felt there were many statements in the report that spoke negatively of the rezoning. Mr. Hoffman said there was no one on "Lingle land" on either side of the road in favor of the rezoning. Mr. Hoffman also stated that residents on Sherrills Ford Road and Cameron Glen were opposed to the request. Mr. Hoffman said folks residing further away did not wish to see the spot zoning in what was clearly a rural, residential area.

Mr. Hoffman referred to the map (Exhibit J) and discussed two residences located at 2560 and 2540 Harrison Road. Mr. Hoffman said it had taken

each one a year or more for those property owners, Peggy and Gilbert Schenk and Jimmy and Linda Blackwelder, to sell their homes. Mr. Hoffman felt the reason was because the properties were next to Kepley's Grading. Mr. Hoffman said, "We're not here to bash Kepley's Grading"; however, Planning Staff had listed the business as a precedent for rezoning.

Mr. Hoffman again referred to trees that had been planted and later died on the proposed site. Mr. Hoffman presented the Board with a letter (Exhibit K) from Jean Lamb, Master Gardener, which stated that 52% of the trees were dead. Mr. Hoffman also presented a photograph (Exhibit L) of one of the dead trees.

- Walter Wall came forward to address the Board. Mr. Wall had not been sworn in and asked if he could be sworn at this time. Chairman Chamberlain refused the request, explaining that the Board had passed that point in the proceedings. Mr. Wall said he had no evidence to present and asked if he could make brief comments. Mr. Wall said Sherrills Ford Road was part of the North Carolina Scenic Byway and that he was unsure if the rezoning would affect that status. Mr. Wall observed that the project appeared to be phase I of a much bigger project that had not been presented.
- Nicole Wright, daughter of Mr. and Mrs. James Blackwelder, 180 Oscar Lane said her parents property adjoined Mr. Lingle's land. Ms. Wright said she was opposed to the construction of the mini-warehouses, which she said greatly affected her and her son, as they were the heirs to her parent's property. Ms. Wright said her grandparents land also adjoined Mr. Lingle's land. Ms. Wright said the construction of the mini-warehouses would affect the adjoining and neighboring residences. Ms. Wright said the land had been in the family for over six (6) generations and up to this point, everyone had used the land in a respectful manner and not as a burden to their neighbors. Ms. Wright asked the Board to consider her plea to stop the advancement of the mini-warehouses.

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

Chairman Chamberlain suggested that the Board continue the request to a later date in light of all the information that had been presented.

Commissioner Barber agreed with Chairman Chamberlain. Commissioner Barber said in regards to the comments pertaining to Sherrills Ford Road being in the North Carolina Scenic Byway, he would like more time to digest the evidence.

Commissioner Barber moved to delay the issue to a future meeting. Commissioner Mitchell seconded the motion.

Commissioner Mitchell asked if the Board would have to re-open the public hearing if the Board were to receive additional information regarding the North Carolina Scenic Byway, County Attorney Jay Dees said the Board could ask Staff to present such information.

Chairman Chamberlain again stated that in light of all the information received, he felt it a good idea to continue the request to a later date and Commissioner Hall agreed.

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

Chairman Chamberlain said the matter was “not over” and he instructed those involved in the case not to contact the Board members to discuss the issue or try to influence the Commissioners decision.

Mr. Dees questioned Staff as to the timeframe for the Board to take action. Mr. Stewart said he thought the timeframe was 45 days; however, Mr. Dees said he and Mr. Stewart would confirm this and schedule the matter appropriately.

Chairman Chamberlain instructed Mr. Dees and Mr. Stewart to confirm the timeframe and to check with the Clerk to the Board to have the issue placed on a future agenda.

Chairman Chamberlain called for a short recess at 5:07 pm.

Chairman Chamberlain reconvened the meeting at 5:15 pm.

At this point in the meeting, Chairman Chamberlain recognized and welcomed Katelyn Elium, a senior from West Rowan High School. Ms. Elium was in attendance as part of her scholastic efforts and work on a senior project.

#### **4. CONSIDER APPROVAL OF SPECIAL NON-RESIDENTIAL INTENSITY ALLOCATION REQUEST 08-07 FROM ROBERT STEELE**

Senior Planner Shane Stewart presented the background from applicant, Robert Steele, for a Special Non-Residential Intensity Allocation (SNIA) request to allow 70% impervious coverage for the creation of a small lot containing an existing warehouse located at 11575 NC 801 Highway.

Commissioner Sides moved approval of SNIA 08-07. The motion was seconded by Commissioner Mitchell and passed unanimously.

## **5. CONSIDER APPROVAL OF FAMILY SUBDIVISION WAIVER 01-07**

Senior Planner Shane Stewart presented the request from Doy and Gladys Eagle for Family Subdivision Waiver (FSW) 01-07. The Eagles own a 21-acre parcel located along the 700-800 block of Joe Lentz Road containing three homes in which their children reside. Mr. Stewart explained that a family subdivision waiver provides the Board with the ability to “relax” the requirements in the legislative process without rezoning. Mr. Stewart said the Eagles intend to create 3 more lots for a son, daughter and 2 granddaughters, who will share one lot, for a total of 6 lots. Mr. Stewart said the subdivision ordinance limits family subdivisions to 4 lots and specifies newly created lots must be located on an existing state maintained road or a new road constructed to NCDOT standards to assure landowners adequate access. Mr. Stewart said the private gravel road servicing these lots is well maintained. Staff recommends approval of the request.

In response to a query from Commissioner Hall, Mr. Stewart explained how the driveway cutting across lots 2, 3, 4, and 5 would impact lot 6. Mr. Stewart said the driveway would be moved by agreement of all lot owners.

Chairman Chamberlain said he was concerned that the children would not reside on the new lots but would use the land as access to the lake. Chairman Chamberlain said if the Board were to grant the request, the Eagles should understand they could not sell the land as lakefront property if it was approved as a family subdivision. Mr. Stewart said the family had been informed about the restrictions under family subdivisions.

The applicant, Gladys Eagle of 12235 Stokes Ferry Road said the property is located at the end of Joe Lentz Road and has been in her husband’s name since 1950. Ms. Eagle said the other children wanted access to the lake and she had promised to give her children the land by the lake. Ms. Eagle expressed appreciation for the Board’s consideration of the request.

Commissioner Mitchell moved, Commissioner Barber seconded and the vote to approve FSW 01-07 passed unanimously.

## **6. CONSIDER APPROVAL OF INTERLOCAL AGREEMENT FOR RDH TIRE WATER LINE GRANT PROJECT**

Jeff Jones, Salisbury-Rowan Utilities Planning and Research Manager discussed the Interlocal Agreement for the RDH Tire and Retread Water Line Grant Project. Mr. Jones said the agreement is required by the North Carolina Department of Commerce Division of Community Assistance regarding the CDBG-ED grant application. Mr. Jones said the project is an economic development project based on the company’s commitment to expand and create jobs for Rowan County.

Commissioner Barber moved approval of the Interlocal Agreement for the RDH water line grant project. The motion was seconded by Commissioner Hall.

Commissioner Sides said while he favored the project, he had concerns with signing over the facilities to the City of Salisbury and the County basically not getting anything in return.

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

## **7. CONSIDER APPROVAL TO ACCEPT DONATION OF EQUIPMENT TO EMERGENCY SERVICES**

Emergency Services Director Frank Thomason said the Board received a letter from the regional Triad Regional Advisory Committee (TRAC), which represents approximately 10 Piedmont counties. Mr. Thomason said the TRAC applied for and received a grant from the state office of Emergency Services (EMS) to provide a 2-way radio base station in each of the TRAC counties. Mr. Thomason explained the radio system provides the capability of intercommunication within the 10 counties as well as statewide. Mr. Thomason said originally the equipment was installed in each county with ownership maintained either by TRAC or the state office of EMS; however with procedure changes, ownership is now being turned over to the counties where the equipment was installed. Mr. Thomason said he is seeking approval to accept the equipment.

Commissioner Sides moved to accept the donation of equipment to Emergency Services. The motion was seconded by Commissioner Mitchell and passed unanimously.

County Manager William Cowan asked if the motion included authorization for T.J. Brown to sign the Memorandum of Agreement on behalf of Rowan County.

Commissioners Sides and Mitchell were agreeable to the authorization being included as part of the motion.

## **8. UPDATE ON TRAFFIC STUDY AT JESSE CARSON HIGH SCHOOL**

Chairman Chamberlain recalled that during regular session on October 22, 2007, he requested that Commissioners Hall and Sides, along with County Manager William Cowan, report back to the Board with an update regarding a traffic study being performed by the North Carolina Department of Transportation (NCDOT) at Jesse Carson High School.

Commissioner Sides said the group had met with DOT personnel and reviewed the results from the State's traffic study. Commissioner Sides said while good information was presented, he felt to some degree, the DOT failed to monitor the traffic situation in the mornings when traffic is at its worst. Commissioner Sides said the DOT had considered some of the changes the Board would like to see made. Commissioner Sides said those changes dealt with the location of the

existing speed limit signs and also with extending the length of the school zone. Commissioner Sides said the DOT indicated they have ordered flashing signs, which will be installed as soon as the signs become available.

Commissioner Sides said the traffic officer that works at the site discussed the variations of the speed limit along the road. Commissioner Sides said DOT personnel indicated they would further investigate that situation. Commissioner Sides said it was suggested to reduce the speed limit to 35 mph, but was unsure if the DOT would recommend posting that speed limit. Commissioner Sides said another issue with the traffic was the narrow turning lane. Commissioner Sides said vehicles pull onto the grass to go around the vehicles in the turning lane. Commissioner Sides stated that a lot of good came from the meeting and the DOT will do a morning traffic study and report back to the Board.

Commissioner Hall said she appreciated the willingness of the DOT to meet with the group. Commissioner Hall said the DOT began its presentation by stating there were 2 overriding objectives to follow: 1) consistent response across the state and 2) no preconceived outcome. Commissioner Hall said Pat Ivey with the DOT reported that the Board of Education officials had been advised by DOT officials not to build Jesse Carson High School at its current location. Commissioner Hall said requests for traffic lights from other schools in the region have not been funded; therefore the DOT has been consistent.

Commissioner Hall explained that the DOT has a number of “warrants” that must be met to qualify for a traffic signal and thus far the County has only met one of the requirements. Commissioner Hall felt the DOT improvements with the turning lanes and extending the school zone should help the traffic situation. Commissioner Hall said the DOT officials were very complimentary of the work of the Sheriff’s deputies in guiding traffic.

Commissioner Barber inquired if there had been any feedback from the legislative delegation. Commissioner Sides responded that the DOT had made a presentation to Representative Fred Steen but not the other delegates. Commissioner Sides said the Board received an email from Representative Coates’ office stating the County cannot by law reduce the speed limit in a school area without a concurrent ordinance from the State. Commissioner Sides said the way the DOT presented the information seemed as if a traffic light would not solve any of the problems with traffic.

Chairman Chamberlain stated that before the school was built, the County knew Hwy 152 was over capacity.

Commissioner Sides said the DOT has decided to make changes to the left turn lane onto Hwy 152. Commissioner Sides said there is a possibility of funding from the Governors Highway Program for the officers directing traffic.

Commissioner Hall said the traffic officers could be very expensive over a period of time. Commissioner Hall said the DOT was asked if they would be interested in matching funds with the County to pay for a traffic light, but the DOT responded no.

Commissioner Sides added he was very impressed with Lt. Eddie Kluttz's presentation during the DOT meeting.

## **9. DISCUSSION REGARDING REQUEST FOR PROPOSALS FOR ROWAN COUNTY FAIR**

Chairman Chamberlain said there was a proposed Request for Proposals (RFP) for the Rowan County Fair in the agenda packets, as well previous correspondence from Sheriff Wilhelm relating to security of the facilities. Chairman Chamberlain opened the floor for discussion regarding the RFP process.

Commissioner Barber said the memorandum indicates the item is time-sensitive and he suggested that the Board approve the RFP to solicit proposals for a company/organization to manage the annual fair. Commissioner Barber said this would allow the Board to select the company/organization at one of the December meetings. Commissioner Barber suggested adding a requirement to the RFP regarding evidence of insurance.

Commissioner Barber questioned the requirement in the North Carolina General Statutes pertaining to the charter for the agricultural and industrial fair. County Attorney Jay Dees explained that anyone that puts on an agricultural fair must be permitted by the Department of Agriculture. Mr. Dees said there is no "original charter" as there could be multiple groups with permits in any given county to put on a fair.

Commissioner Sides said the evidence of insurance requirement would be listed as part of a contract signed with the agency chosen. Commissioner Barber agreed with Commissioner Sides.

After a brief discussion, the Board agreed to set the RFP deadline for December 7, 2007 at 5:00 pm and the Board would make a decision during its regular meeting on December 17, 2007 regarding the company/organization to manage the fair.

Chairman Chamberlain instructed Staff to send out the RFP immediately.

Commissioner Sides said if the Board needed more information he didn't see a problem putting off a decision until the first week in January.

Commissioner Mitchell moved approval of the RFP with a deadline of 5:00 pm on December 7, 2007. Commissioner Barber seconded and the motion passed unanimously.

#### **10. CONSIDER REQUEST TO HIRE ATTORNEY TO HANDLE TAX APPEALS FOR ALCOA AND GENERAL ELECTRIC**

County Attorney Jay Dees recalled that the Board had met in regular session on October 22, 2007 and discussed retaining Attorney Charles Meeker to handle the tax appeals for Alcoa and General Electric. Mr. Dees said since that time, he had consulted with Mr. Meeker regarding the fee that would be charged to the County and Mr. Meeker had agreed to charge a government rate of \$290 per hour.

Commissioner Mitchell moved approval of retaining Attorney Charles Meeker at a rate of \$290 per hour to handle the tax appeals for Alcoa and General Electric. Commissioner Barber seconded the motion.

Commissioner Barber asked how long the County had been working on the Alcoa and GE situations. Mr. Dees stated the GE situation had been going on for more than a year while Alcoa was a new appeal this year. Mr. Dees stated Mr. Meeker's involvement was driven by his representation of Graham County in an Alcoa appeal. Mr. Dees stated that the same types of assets and issues are presented in Rowan County's Alcoa appeal as those of Graham County's appeal. Mr. Dees explained that the GE appeal dealt with business listing taxes and the County had been unable to make any headway. Mr. Dees said Mr. Meeker had agreed to provide a breakdown/categorization of his time and to advise the County what it could do to offset Mr. Meeker's time. Mr. Dees said the value of having an attorney with Mr. Meeker's level of experience was critical for the hearing and the appeal process based on the revenues at stake.

Commissioner Sides moved to hire Mr. Meeker and for the Board to be kept abreast of how much money is being spent.

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

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

Finance Director Leslie Heidrick submitted the following budget amendments for the Board's consideration:

- Airport – To budget revenues and expenditures associated with NCDOT Division of Aviation grant in the amount of \$13,973 for quality assurance testing costs incurred during the construction of the Corporate Hangar Area Fill Project
- Cooperative Extension – To budget funds for the Master Gardner Coordinator received from The Blanche and Julian Robertson Family Foundation - \$ 5,000

- Emergency Services – To budget the 2006 CERT / Citizens Corps Grant - \$5,995
- Health – To align expenditures and reduce the Child Care Health Consultant budget by \$708
- Health – To increase revenues and expenditures where state funding and awarded grants have occurred - \$ 25,330
- Sheriff – To budget funds awarded for Bulletproof Vest Grant - \$3,999
- Soil and Water – To recognize revenue received from Carolina Farm Credit and Rowan County Farm Bureau and budget these donations to help with the purchase of new signs. The signs will be used to identify farms that are participating in the Voluntary Ag Districts Program - \$ 340
- Telecommunications – Funds to replace the failed UPS that provides battery back up to the entire 911 center - \$27,850

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

**12. CONSIDER APPROVAL OF BOARD APPOINTMENTS**  
**CHINA GROVE PLANNING BOARD**

The Town of China Grove has recommended Keith Bostian to replace Wayne Pegram, who has moved, as an ETJ member. The term will expire on December 31, 2010.

Commissioner Mitchell nominated Keith Bostian and the nomination carried unanimously.

**ROWAN COUNTY JURY COMMISSION**

Stephen Thackery has submitted an application for reappointment. In order for Mr. Thackery 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 would begin December 1, 2007 and expire November 30, 2009.

Commissioner Mitchell moved to waive the term limits, Commissioner Barber seconded and the motion passed unanimously.

Commissioner Mitchell nominated Stephen Thackery and the nomination carried unanimously.

**ROWAN COUNTY JUVENILE CRIME PREVENTION COUNCIL (JCPC)**

The following application has been received to fill a vacant position on the JCPC:

- James “Jim” Mallinson - Substance Abuse Professional

The term would be for two (2) years beginning November 1, 2007 and expiring on October 31, 2009.

Commissioner Barber nominated Jim Mallinson and the nomination passed unanimously.

### **POOLETOWN VOLUNTEER FIRE DEPARTMENT**

The Pooletown VFD is requesting the appointment of 3 Fire Commissioners and has submitted the following applicants for consideration:

- Larry C. Shaver
- Charles E. Latham
- Lee Roy Kirk
- Christopher L. Hall

The term of appointment would be for two (2) years beginning December 1, 2007 and expiring November 30, 2009.

Commissioner Sides nominated Larry Shaver, Charles Latham and Lee Roy Kirk and the nomination passed unanimously.

### **AIRPORT TECHNICAL ADVISORY COMMITTEE (TAC)**

The following applications have been received from individuals interested in serving on the Airport TAC:

- Bill Burgin
- Bruce Allen
- Wilburn "Will" Yochim, Jr.
- Thomas Greene
- Allen Gould

Chairman Chamberlain suggested the Board select two more individuals to serve on the TAC and the Board agreed.

Commissioner Hall inquired about Bill Burgin and the number of boards he already serves on. Commissioner Sides said he had planned to request Mr. Burgin not be appointed due to the number of boards he already serves on in the City and the County.

Chairman Chamberlain moved all of the applications into nomination and called for a vote on each one as follows:

- Bill Burgin: no votes
- Bruce Allen: unanimous vote
- Wilburn "Will" Yochim, Jr.: no votes
- Thomas Greene: unanimous vote
- Allen Gould: no votes

Chairman Chamberlain stated that Bruce Allen and Thomas Greene had been approved for appointment to the TAC.

### **13. DISCUSSION REGARDING COUNTY MANAGER'S POSITION**

Chairman Chamberlain said the discussion regarding the County Manager's position was placed on the current agenda based on his request at the last Commission Meeting. Chairman Chamberlain said he felt it was too early to hold the discussion.

Commissioner Mitchell asked if there had been any interest in the position and the Director of Administration, Ken Deal, said Human Resources had received four applications.

Chairman Chamberlain questioned County Manager William Cowan regarding his last day of employment with Rowan County and Mr. Cowan responded December 31, 2007.

### **14. ADJOURNMENT**

There being no further business to come before the Board, Commissioner Mitchell moved to adjourn at 5:59 pm. The motion was seconded by Commissioner Barber and passed unanimously.

Respectfully Submitted,

Carolyn Athey  
Clerk to the Board