

**MINUTES OF THE MEETING OF THE  
ROWAN COUNTY BOARD OF COMMISSIONERS  
March 17, 2008 – 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

Clerk to the Board Carolyn Athey and County Attorney Jay Dees were present. Interim County Manager/Finance Director Leslie Heidrick was absent.

Chairman Chamberlain convened the meeting at 7:05 pm.

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

**CONSIDER APPROVAL OF THE MINUTES**

Commissioner Barber moved, Commissioner Sides seconded and the vote to approve the minutes of the March 3, 2008 and March 6, 2008 Commission Meetings passed unanimously.

**CONSIDER ADDITIONS TO THE AGENDA**

- Commissioner Sides moved to add a discussion regarding an offer for the purchase of surplus property located at 1127 South Main Street. The motion was seconded by Commissioner Mitchell and passed unanimously.

Chairman Chamberlain added the issue as agenda item #10b.

- Commissioner Sides moved to add a discussion regarding negotiations for the position of County Manager. The motion was seconded by Commissioner Mitchell and passed unanimously.

Chairman Chamberlain added the issue as agenda item #10a.

## **CONSIDER DELETIONS FROM THE AGENDA**

Commissioner Sides moved, Commissioner Mitchell seconded and the vote to delete agenda item #8 (consider approval of request from Sheriff to conduct survey regarding overcrowding conditions at Detention Center) passed unanimously.

At this point, Chairman Chamberlain moved agenda item #11 (consider approval of budget amendments) to agenda item #2a in the order of discussion.

## **CONSIDER APPROVAL OF THE AGENDA**

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

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

Commissioner Sides moved approval of the Consent Agenda. Commissioner Hall seconded and the motion passed unanimously.

### **2. PUBLIC COMMENT PERIOD**

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

- Jerry Shelby of 503 Carolina Boulevard referred to an agreement approved by the Board on March 3, 2008 between the County and the North Carolina Department of Transportation regarding a bicycle map project. Mr. Shelby discussed his involvement in attempting to get bicycle maps for Rowan County and he also discussed his disappointment that the bicycle routes were not for recreational purposes. Mr. Shelby encouraged the Board to reconsider its approval of the March 3, 2008 agreement.
- J.P. Smith of 125 Gregory Road expressed displeasure with the City of Salisbury's proposed forced annexation for the Highway 150 corridor. Mr. Smith said he is opposed to forced annexation of the Hidden Hut subdivision.
- Marie Howell of 145 Devon Drive thanked the Board for its actions regarding the forced annexation proposed by the City of Salisbury. Ms. Howell said she lived in Neel Estates and did not wish to be governed by an entity that would vote to spend \$47,000 on an area that may not be annexed.
- Mary Lynn Connor of 345 Hidden Hut Road said she was recently speaking with a group of Hidden Hut neighbors and none of them were in favor of forced annexation. Ms. Connor said several of those neighbors were unable to attend the current Commission Meeting and had asked her to speak for them in opposition to the forced annexation. Those individuals were: Glen McCorkle, Claudia Swicegood, Boots Lottes, Patrick McMullen, Pauline McMullen, Bill Goodman, Patrick Foley, Patricia

Foley, Arthur Hattaway, Joe Hall, Pam Hall, Charles Snowberger, Mary Snowberger, Homer Kattner, Patsy Kattner, Vance Meek, James Denham, Larry Wright, William Lentz, Margie Howard, Barry Hammer, J.P. Smith, Roy Smith, Ted Sowers, Peggy Sowers, Larry Goodman, Jerry Hillard, Doris Hillard and Marie Howell.

- Bill Owens discussed the forced annexation proposed by the City of Salisbury. Mr. Owens asked the Board to consider reducing the valuation of homes either on a percentage rate or by another revaluation due to the dire economy. Mr. Owens requested that if such actions were not possible, that the Board consider assisting those on fixed incomes who could not afford further cost burdens, especially from forced annexation. Mr. Owens asked the Board to immediately put to a vote a request for the City of Salisbury to change the amount of funding the City provided to the County for the school system. Mr. Owens also asked the Board to begin necessary action to begin the process of combining city and county government to reduce any redundancies within both bodies.
- Jeff Morris of 403 Crestwood Lane in Spencer, and Mayor Pro-tem of Spencer, spoke in favor of the proposed expansion for the Buck Steam Plant. Mr. Morris recalled that approximately four (4) years ago, the County was listed as having among the worst air quality in the nation. Mr. Morris said as a resident and concerned citizen, he would like for the Board to consider that the public health, safety, and welfare of the County would be promoted by the fact that coal-fired units at the Buck Steam Plant would be retired if the proposed expansion were approved. Mr. Morris said Duke Energy had been a good corporate citizen and he asked the Board to consider approval of the conditional use permit to be considered later in the meeting.
- Rod Whedbee of 502 South Church Street spoke in favor of the Duke Energy expansion at Buck Steam Plant. Mr. Whedbee felt the request was essential to the economic growth of Rowan County and to the reduction of greenhouse emissions. Mr. Whedbee applauded Duke Energy for selecting the more expensive and cleaner natural gas-fired turbine generators. Mr. Whedbee asked the Board to approve the conditional use permit for the Buck Steam Plant.
- Jack Fisher of 6105 Long Ferry Road said he supported the Buck Steam Plant expansion. Mr. Fisher said his wife and her family owned approximately 128 acres that almost bordered Duke Energy's property and he described Duke Energy as a good neighbor to the residents along Long Ferry Road. Mr. Fisher said the expansion also created a better tax base for the County and he expressed hope that the Board would approve the request.

At this point, Chairman Chamberlain asked the citizens who were attending the meeting due to their opposition to forced annexation to please stand. Approximately eight (8) citizens stood.

- Dave Risdon of 8734 Brentfield Road in Huntersville echoed the comments of the previous speakers pertaining to the Buck Steam Plant. Mr. Risdon said he owned property near the plant and was in favor of the company retiring the coal-fired units. Mr. Risdon said the expansion would improve the air quality of the County and he encouraged the Board to approve the conditional use permit.

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

**2a. CONSIDER APPROVAL OF BUDGET AMENDMENTS**

The budget amendments submitted by Interim County Manager/Finance Director Leslie Heidrick were moved from agenda item #11 to agenda item #2a in the order of discussion.

- County Manager's Office – To budget revenues and expenditures associated with the One NC Fund Grant awarded by the North Carolina Department of Commerce to Rowan County and Wind Tunnel eXtreme, LLC. A maximum of \$30,000 will be received by the County and disbursed to Wind Tunnel eXtreme. For this grant there is no County match - \$30,000
- Environmental Health – To fund the career development plan approved by the Personnel Board on March 4, 2008 for Environmental Health. The budget amendment will fund the plan for the remainder of fiscal year 2008 - \$ 22,289
- Finance – To budget additional anticipated ad valorem tax revenues and corresponding expenditures for the Fire Districts - \$ 182,975

Commissioner Sides requested to pull the budget amendment for the One NC Fund Grant for Wind Tunnel eXtreme for a separate vote.

Chairman Chamberlain asked Board members if they were in favor of accepting the budget amendment for Wind Tunnel eXtreme. The majority supported the budget amendment with Commissioner Sides dissenting.

Commissioner Mitchell moved to accept the budget amendments. The motion was seconded by Commissioner Barber and passed unanimously.

**3. CONSIDER APPROVAL OF PROCLAMATION HONORING THE LIFE, SERVICE AND COMMITMENT OF ROWAN COUNTY FIREFIGHTERS AND ALL PUBLIC SERVANTS**

Chairman Chamberlain requested that Tom Murphy, Fire Marshal, and John Morrison, President of the Fire and Rescue Association, come to the front row.

Chairman Chamberlain referred to the devastating structure fire that occurred at Salisbury Millwork on March 7, 2008, which claimed the lives of two (2)

firefighters, Victor Isler and Justin Monroe. Chairman Chamberlain said he personally knew the Monroe family and that he and Eddie Monroe were blessed to have had such fine sons. Chairman Chamberlain said many fire fighters and fire departments responded to the tragedy, including volunteers, and there had been a lot of heroes on the scene.

Chairman Chamberlain read the Proclamation and following the reading, Commissioner Sides moved approval of the Proclamation. Commissioner Barber seconded and the motion passed unanimously.

Chairman Chamberlain presented the Proclamation to Mr. Murphy and Mr. Morrison to distribute to the families, as well as the individual fire departments affected by the deaths of Mr. Isler and Mr. Monroe.

A standing ovation and round of applause followed the presentation.

#### **4. PUBLIC HEARING REGARDING THE KEITH CORPORATION'S OPTION TO PURCHASE PROPERTY IN SUMMIT CORPORATE CENTER**

County Attorney Jay Dees said the Board had received an offer from The Keith Corporation (TKC) to exercise the final part of the option to purchase property in the Summit Corporate Center. Mr. Dees said the Board was required to hold a public hearing regarding the sale.

Chairman Chamberlain opened the public hearing to receive citizen input regarding TKC's option to purchase property in Summit Corporate Center.

- Rod Whedbee felt it was a mistake for a government entity to get involved in real estate transactions unless it involved controlling a government building. Mr. Whedbee said from a county or city standpoint, one would have to be careful to not violate ethics or end up competing against the public.

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

Commissioner Sides said other counties had experienced success with corporate centers; however, Rowan County had not been as successful. Commissioner Sides said he was completely against the contract that TKC had received and he felt there were terms in the contract that did not benefit Rowan County citizens. Commissioner Sides said TKC had already been allowed to purchase property in the industrial park at a reduced value and was given a premium when they sold land to themselves. Commissioner Sides concluded by stating he was completely against the idea of government being in the real estate business.

Commissioner Mitchell said he agreed with the comments of Commissioner Sides and Mr. Whedbee. Commissioner Mitchell said Rowan County's

experience with Summit Corporate Center had been less than optimum and the relationship with TKC had not been as positive as many would have liked. Commissioner Mitchell said he did not like the current deal.

Commissioner Mitchell moved to accept the offer to purchase with the one condition that after the two (2) year time limit expires, if the property has to be offered back to Rowan County, the 10% commission also comes back to Rowan County. Commissioner Barber seconded the motion.

Commissioner Hall said she agreed with Commissioners Sides and Mitchell and she said she could not vote in support of a sale that she considered “almost an insult”. Commissioner Hall said TKC was asking for a 10% commission for selling property to itself. Commissioner Hall said in the time TKC had marketed the property for Rowan County, there had been no “takers” or “prospects”.

Commissioner Barber said the situation was complex and in principle he agreed with what the other Commissioners had stated. Commissioner Barber said the option with TKC did establish fair market prices and included a 10% commission. Commissioner Barber said while the Board may not agree with the contract, it had been approved. Commissioner Barber agreed if no activity took place within two (2) years, the County should be able to buy the land back, plus the commission that was paid. Commissioner Barber suggested the Board move forward and allow TKC to exercise the option.

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

Chairman Chamberlain said he did not like voting in favor of the motion but he had, in part, based on what Commissioner Barber had said. Chairman Chamberlain said the Board would move forward and that as long as the current Board members were serving, agreements like the agreement with TKC would not happen again in Rowan County.

Chairman Chamberlain asked Mr. Dees if a motion was necessary for the 90-day extension. Mr. Dees responded that the County was left with plenty of time to close and if TKC required additional time, TKC would have to make that request.

##### **5. QUASI-JUDICIAL PUBLIC HEARING FOR CUP 07-07 FOR CLUSTER SUBDIVISION FOR PLANTATION RIDGE PARTNERSHIP**

Chairman Chamberlain read the Chairman’s Speech (Exhibit A) and declared the public hearing for CUP 07-07 to be in session. Chairman Chamberlain said the hearing would focus on an application submitted by Plantation Ridge Partnership for their property located between the 6670-7500 block of Mooresville Road. The purpose of the request was to allow a 170-lot single-family residential cluster subdivision on Tax Parcel 210 016.

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

Planner Andy Goodall presented the Staff Report (Exhibit B) and provided a power point presentation (Exhibit C) as he reviewed the request for the proposed cluster subdivision. Mr. Goodall explained that according to the County's ordinance, cluster subdivisions are a division of land requested by the subdivider and is approved to subdivide the original tract into lots smaller than those specified in the ordinance, provided that the land saved is reserved for permanent, common use, usually in the form of open space.

Using the power point presentation (Exhibit C), Mr. Goodall showed a map of the proposed cluster subdivision, which he said was named Yorkshire Farms.

Mr. Goodall said the proposal was a 170-lot single-family residential subdivision clustered on approximately 119 acres of the 196.8-acre parcel. Mr. Goodall said Plantation Ridge, with the assistance of Shulenburger Surveying, had designed the subdivision to limit the development to close to 120 acres, 105 acres being for lots and approximately 14 acres for roads.

Mr. Goodall said the average lot size being proposed was near 27,000 square feet compared to 40,000 by right. Mr. Goodall said approximately 78 acres would be devoted to common open space with density being 46,697 square feet.

Mr. Goodall used the power point presentation (Exhibit C) to show the proposed subdivision as well as the surrounding areas. Mr. Goodall noted several major subdivisions in the area. Mr. Goodall said the idea was to cluster most of the development in the cleared area; most of the wooded area would not be developed. Mr. Goodall said a condition of the permit was to have the smaller lots and not develop specific areas. Mr. Goodall asked the Board to keep in mind that by right, the owners could develop 170 lots at 40,000 square feet but doing so would take out most of the woods.

Commissioner Sides asked if the 70-plus acres could ever be developed once the conditional use permit was granted and Mr. Goodall said no.

Mr. Goodall reviewed the residential clustering criteria listed in the Staff Report (Exhibit B) as follows:

1. Minimum of four dwelling units.
2. Setbacks, Exterior and Internal. Mr. Goodall said all setbacks had been met.
3. Buffers. Mr. Goodall said since adjoining structures are within 200' of the development, a 20' buffer had been added along the northern property line from lots 101-118.
4. Density. Mr. Goodall said the density would have to be 40,000 square feet or more and with the bonus of the undeveloped area, there would be approximately 47,000 square feet.

5. Common Areas. Mr. Goodall said there would be nearly 78 acres of common open space. Mr. Goodall said there were easements at the end of some of the cul de sacs so residents could access the open spaces.

Mr. Goodall highlighted the conditional use criteria contained in the Staff Report (Exhibit B) as follows:

1. Adequate transportation access to the site exists. Mr. Goodall said conversations with the NCDOT indicate that there is adequate site distance in the front where there is the connection to Mooresville Road. Mr. Goodall said turn lanes would be likely and would come at the expense of the developer.
2. The use will not significantly detract from the character of the surrounding area. Mr. Goodall said according to the 2000 Thoroughfare Plan, estimates for the dwelling units in the vicinity are to increase from 466 to 869 units between 1995 and 2025. Mr. Goodall said the proposed subdivision went along with the general trend.
3. Excessive traffic or parking problems will not result. Mr. Goodall said traffic would obviously be a question for 170 new homes. Mr. Goodall said the latest counts from 2007 had a volume to capacity ratio of 57 percent, or 4,000 daily trips in that section; the capacity for the road is 7,000. Mr. Goodall said the proposed development may generate an additional 1,700 daily trips, which was still well under capacity.
4. The use will not create significant visual impacts for adjoining properties or passersby. Mr. Goodall said between the undeveloped areas and the buffers being provided on the northern edge, there should be plenty of visual separation.

Mr. Goodall used the power point presentation (Exhibit C) to show additional photos of the areas around the proposed development.

Mr. Goodall said the Subdivision Review Committee had looked at the plans and recommended approval as requested. Mr. Goodall said the Planning Board had voted (5-2) in September 2007 to approve the request as submitted with three modifications as listed in the Staff Report (Exhibit B). Mr. Goodall said the modifications had already been changed on the concept plan.

Mr. Goodall said Staff recommended approval of the request.

In response to queries from Commissioner Hall, Mr. Goodall explained the density requirements of the zoning ordinance. Mr. Goodall said the idea of a cluster subdivision was to preserve open space. Mr. Goodall said instead of spreading 40,000 square foot lots throughout the entire 196 acres, basically erasing the open space, the area could be used as a bonus to shrink the lots and save the open space. Mr. Goodall said by right, one-acre lots could be built leaving no open space whatsoever.

Commissioner Hall asked if the open space would be developed into a park. Mr. Goodall said the plans are currently in the concept phase and there were conversations for developing trails. Mr. Goodall said the exact use for the open space had not yet been specified. Mr. Goodall said two (2) of the lots had been reserved for a clubhouse and a pool, and would be attached to the open space but had not yet been discussed in detail.

Mr. Goodall pointed out that if the developer planned to build 40,000 square feet per lot, the request would not be before the Board.

Commissioner Sides pointed out that each lot would have to perk for a septic system. Mr. Goodall agreed and commented that the septic systems had been a concern for the Planning Board. Mr. Goodall said in the concept phase, approval was for a maximum of 170 lots. Mr. Goodall said a few of the lots might have to be "tied together" to create 1 ½-acre lots. Mr. Goodall said the Board was approving a plan for the open space to remain undeveloped.

Commissioner Mitchell asked if the developer would be allowed to "go back" to the 40,000 square foot lot requirements if the developer were to discover a huge number of the lots would not perk for the cluster subdivision. Mr. Goodall responded that the developer would have to wait one (1) year before submitting another plan.

Commissioner Hall asked if it was unusual to ask for the conditional use permit when plans for developing trails or parks, etc. were complete. Mr. Goodall responded that as long as there is access to the open space, the plans for the open space did not have to be included in the plans for the development. Mr. Goodall said the Homeowners Association would be in charge of the open space.

Commissioner Hall asked if the Planning Staff had received comments from the community regarding the proposed plans. Mr. Goodall reported that one citizen had visited the Planning and Development Office regarding concerns with traffic issues. Mr. Goodall said other than the one citizen with the traffic concerns, Staff had not had "too many people come and speak against it."

Mr. Goodall referred to the Planning Board's votes, specifically the two (2) votes that were opposed to the plans. Mr. Goodall said one (1) of the Planning Board members was in favor of farmland preservation and the other member had concerns with the septic issue.

Commissioner Mitchell asked if another subdivision of this size would max out the road and Mr. Goodall responded yes.

Lee Wallace, a partner with the Plantation Ridge Partnership, addressed the issue of open space for the proposed subdivision. Mr. Wallace said the partnership planned to have natural trails, possibly a ballfield and community

type projects in the open space. Mr. Wallace said there were access easements from two (2) or three (3) different directions to the open space. Mr. Wallace said the partnership had also reserved two (2) lots in the event a decision was made to put in a pool or clubhouse.

Commissioner Sides asked if Mr. Wallace had any concerns with septic issues for ½-acre lots. Mr. Wallace said a lot of soil work had been performed on the site before the subdivision was laid out; he was optimistic that a large percentage of the lots would perk.

Chairman Chamberlain asked if there was anyone else wishing to provide evidence in the case. At this point the following individuals came forward to be sworn in.

Jeff Morris said with respect to the cluster subdivision ordinance, this is an opportunity for local government to step forward and approve a private initiative sought by the landowner that would involve the preservation of land with no expenditure of public funds. Mr. Morris said he submitted this information as fact.

Ed Muire, Rowan County Planning and Development Director, said he wished to clarify two (2) items. Mr. Muire said Commissioner Hall had questioned the density issue and he explained that in terms of the 40,000 square foot minimum lot size, if all the homes were built, the density would be one (1) home per 47,000 square feet. Mr. Muire said there would be “a bigger footprint per dwelling” than if there were 40,000 square foot lots. Mr. Muire also clarified that even though the Zoning Ordinance does recognize the 40,000 square foot minimum lot size, the County is governed by the water supply watershed surface water requirements, which mandates the minimum lot size. Mr. Muire said Staff had asked the Department of Environment and Natural Resources for a ruling and after many months, their ruling was that the cluster subdivision was acceptable. Mr. Muire said the clustering concept allowed the County to break from the conventional model of subdivisions.

Bobby Harrison said he lived approximately one (1) mile from the proposed subdivision. Mr. Harrison said he is the citizen that Mr. Goodall referred to that had visited the Planning Office regarding traffic concerns. Mr. Harrison expressed concern at the possibility of school buses being hit in the curve near the subdivision. Mr. Harrison said the Staff Report (Exhibit B) indicated the NCDOT would recommend turn lanes and he asked at what point the turn lanes would be required. Mr. Harrison said he had hunted the property as a young man and he described the property as thickets and not the open space as described by Mr. Goodall. Mr. Harrison said the elevation map (Exhibit C) showed a gully and he said the space would not be open for the residents. Mr. Harrison asked the Board to delay its decision and take the time to visit the proposed site. Mr. Harrison said the site was situated on a hilltop and he asked how long it would take for a visual buffer to cover a hillside. Mr. Harrison

questioned the cost of a home built on a ½-acre lot. Mr. Harrison said the sign notifying the public of the proposed development/public hearing was not visible to someone traveling 55 mph along the road. Mr. Harrison again asked the Board to consider delaying approval of the request until the Board members had time to visit the site. Mr. Harrison said he was thinking of the safety of the residents and school buses. Mr. Harrison said he had attempted to contact Brian Childress with the NCDOT regarding traffic counts and accident data. Mr. Harrison said the curve in question is where a deputy with the Rowan County Sheriff's Department had wrecked the previous Saturday. Mr. Harrison said there were three (3) accidents at the same location in the past 18 months. Mr. Harrison named several neighbors who said they did not know of the public hearing and Mr. Harrison again said he felt adequate notification of the public hearing was not made.

With no one else wishing to provide evidence in the case, Chairman Chamberlain closed the public hearing.

Commissioner Sides moved to table the request to the second meeting in April. Commissioner Sides said he would like the opportunity to meet with planning staff and research the issue further. The motion was seconded by Commissioner Hall and passed unanimously.

Chairman Chamberlain called for a break at 8:23 pm.

Chairman Chamberlain reconvened the meeting at 8:33 pm.

## **6. PUBLIC HEARING FOR CUP 01-08 FOR BUCK STEAM STATION EXPANSION**

Chairman Chamberlain read the Chairman's Speech (Exhibit A) and declared the public hearing for CUP 01-08 to be in session. Chairman Chamberlain said the hearing would focus on an application submitted by Duke Energy for their property located at 1555 Dukeville Road. The purpose of the request was to consider an expansion of the Buck Steam Plant on Tax Parcel 650-1-001.

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

Senior Planner Shane Stewart presented the Staff Report (Exhibit B) and also provided a power point presentation (Exhibit C) as he discussed CUP 01-08.

Mr. Stewart said Duke Energy owned approximately 600 acres located off 1555 Dukeville Road along the Yadkin River. Mr. Stewart said the Board had already received comments during the Public Comment Period regarding the proposed expansion to modify the existing Buck Steam Station, which had been in operation since 1926. Mr. Stewart said the company planed to retire several coal-fired units and operate two (2) natural gas-fired combustion turbine generators with combined cycle capacity, two (2) heat recovery steam generators

to achieve the combined cycle generators, one (1) reheat condensing steam turbine generator, ten (10) cooling cells to support the steam turbine and several support structures and uses. Mr. Stewart said the current facility exhibits approximately 464 megawatts of energy and after the proposed retirement and expansion of units, there would 975 megawatts of power.

Mr. Stewart said approval for Duke Energy was currently pending with the North Carolina Utilities Commission.

Mr. Stewart reported that the simple cycle mode was expected to begin around May 2010, while the conversion to a combined-cycle was projected to occur by May 2011.

Using the power point presentation (Exhibit C) Mr. Stewart showed a map of the existing site and the proposed facility.

Mr. Stewart pointed out the Conditional Use Criteria listed in the Staff Report (Exhibit B) and highlighted the following portions of the criteria:

- #3 – *Air Quality*. Mr. Stewart said Rowan County was in a non-attainment area for the 8-hour ozone level. Mr. Stewart said due to this status, a Non-Attainment New Source Review (NNSR) determination was made for several components. In addition, an assessment of the eight pollutants specified in the Prevention of Significant Deterioration (PSD), as identified by the Code of Federal Regulations were evaluated. Mr. Stewart said proposed modifications would not create significant increases in pollutants.
- #6 – *The use will not create significant visual impacts for adjoining properties or passersby*. Mr. Stewart used the power point presentation (Exhibit C) to show the site and surrounding properties. Mr. Stewart said Duke Energy had completed a viewshed analysis for five (5) miles surrounding the site and he reported that Staff also drove around to view the site and visual impacts.
- #4 – *The use will not generate significant noise, odor, glare or dust*. Mr. Stewart said Duke Energy anticipates noise levels will remain consistent with current levels, or 85 decibels three (3) feet outside the structure. Mr. Stewart said Staff had performed a sound measurement and from the closest portion of the existing structure to a distance of 960', which is the distance the new facility will be from the closest property line, the decibels were 55.5 over the eight (8) minute waiting period. Mr. Stewart said the noise level was well under the noise standards. Mr. Stewart said the two (2) closest structures were one-half mile away.

Mr. Stewart pointed out the Board's Checklist included with the Staff Report (Exhibit B). Mr. Stewart said he did not review the General Evaluation Criteria for the Board since Duke Energy had exceeded each item.

Randy Welch, District Manager for Duke Energy, provided the Board with the following handouts:

- Profile for D. Todd Shuping, Project Director for Duke Energy – New Generation (Exhibit D)
- Opening Remarks for D. Todd Shuping (Exhibit E)

Mr. Shuping then read the opening remarks (Exhibit E).

Attorney Eddie Poe, of Parker Poe law firm in Charlotte, 401 South Church Street, was in attendance representing the applicant Duke Energy regarding the request for a conditional use permit.

Mr. Poe moved the following items into evidence:

- Entire application (Exhibit F), particularly Section 21-59, which included the Evaluation Criteria Responses on Attachment B
- Site Plan (Exhibit G), as seen on display (power point presentation, Exhibit C) and particularly the information as required by Section 21-32 of the Zoning Ordinance
- Entire Staff Report (Exhibit H), particularly the requirements for Specific Uses under Section 21-60 for the Zoning Ordinance
- Applicant's Proposed Findings of Fact (Exhibit I) to support the application
- Resolution from the Town of Spencer (Exhibit J), which was favorable to the application

Mr. Poe said he would answer any questions the Board might have.

Chairman Chamberlain opened the floor to receive evidence/facts from those who had been sworn in. The following individuals came forward:

Robert Van Geons, Executive Director of the Economic Development Commission (EDC) presented two (2) Resolutions (Exhibit K) that had been adopted by the EDC and Chamber of Commerce in support of the project.

Rod Whedbee of the Property Rights Alliance said there had been a number of factions to curtail economic development. Mr. Whedbee said there had been a proposal in the past to make the Trading Ford area a historic preservation site. Mr. Whedbee said "they" had applied at least twice to the National Register of Historic Places where they were deemed not eligible. Chairman Chamberlain interjected at this point and asked Mr. Whedbee if he had any facts/evidence to put into the record regarding CUP 01-08. Mr. Whedbee said he had two (2) documents, which were "Clean Coal Technology" (Exhibit L) and "A Balanced Energy Plan" (Exhibit M).

With no further testimony to be provided, Chairman Chamberlain closed the public hearing.

Commissioner Sides moved approval of the conditional use criteria:

- Adequate transportation access to the site exists.
- The use will not significantly detract from the character of the surrounding area.
- Hazardous safety conditions will not result.
- The use will not generate significant noise, odor, glare or dust.
- Excessive traffic or parking problems will not result.
- The use will not create significant visual impacts for adjoining properties or passersby.

The motion was seconded by Commissioner Mitchell and passed unanimously.

Commissioner Sides moved that the development of the property in accordance with the proposed conditions will not materially endanger the public health or safety. Commissioner Mitchell seconded and in support of the motion, he recited the following facts:

FACT: The site currently has a safe and adequate access that would not be jeopardized by the requested modifications.

FACT: Although Rowan County is identified as a non-attainment area, Duke Energy suggests the proposed modifications will not create “significant” emissions with respect to the Prevention of Significant Deterioration or Non-Attainment New Source Review thresholds, which will be confirmed by the appropriate government agency before construction. In addition, emission levels for five of the eight PSD pollutants are projected to either remain the same or decrease as a result of this request.

FACT: A gatehouse is proposed to restrict access to the existing facility and the proposed expansion area.

FACT: Duke Energy’s modified (due to expansion) National Pollutant Discharge Elimination System will ensure the water quality will remain within acceptable State and Federal levels.

The motion passed unanimously.

Commissioner Sides moved that the development of the property in accordance with the proposed conditions will not substantially injure the value of adjoining or abutting property, or that the development is a public necessity. Commissioner Mitchell seconded and recited the following facts:

FACT: No testimony or evidence was presented suggesting this request will negatively impact the value of adjoining properties.

FACT: Based on the visual impact study and Planning Staff's windshield survey, this request will have minimal impact on surrounding properties and passersby due to the limited number of visible residences and the existing plant, transmission lines, and other associated improvements.

FACT: In order to provide adequate and reliable energy for the increasing population, this request represents a public necessity for surrounding Duke Energy customers.

The motion passed unanimously.

Commissioner Sides moved that the location and character of the development in accordance with the proposed conditions will be in general harmony with the area in which it is located and in general conformity with any adopted county plans. Commissioner Mitchell seconded based on the following facts:

FACT: Although the county does not have an adopted land use plan, this request will modify an existing power plant that has been in existence since 1926 on property identified during the initial countywide zoning process as having the necessary factors to establish as an industrial zoning district.

FACT: Duke Energy owns over 600 acres surrounding the modification area, which is located ½ mile from the nearest residence suggesting the improvement will be in general harmony with the surrounding area.

The motion passed unanimously.

Commissioner Sides moved approval of CUP 01-08. Commissioner Mitchell seconded and the motion carried unanimously.

## **7. CONSIDER REQUEST TO PLACE EUGENE MCCOMBS CABIN AT DAN NICHOLAS PARK**

Rowan County Parks and Recreation Board members Sue Khan and Paul Brown presented a request for the County to accept a cabin and the antiques contained within, from the Eugene McCombs family for placement at Dan Nicholas Park.

Mr. Brown showed a picture of the cabin and referred to the letter included in the agenda packets. Mr. Brown said the cabin was currently located near the Town of Faith; however, the family would like the cabin placed at Dan Nicholas Park since Mr. McCombs was involved with the development of the park during his tenure as a county commissioner. Mr. Brown said quotes had been received to move the structure and quotes were still being received for the costs of moving the utilities. Mr. Brown said quotes would also be collected for dismantling the existing chimneys and reconstructing them at the new site.

Mr. Brown said the Board was asked to approve accepting the cabin from the McCombs family; he said the Parks Commission project would be handled through private donations and not county funds.

Chairman Chamberlain moved to approve the request. Commissioner Sides seconded and the motion passed unanimously.

**8. CONSIDER APPROVAL OF REQUEST FROM SHERIFF TO CONDUCT SURVEY REGARDING OVERCROWDING CONDITIONS AT DETENTION CENTER**

This issue was deleted from the agenda.

**9. UPDATE ON PROVIDING RECORDED COMMISSION MEETINGS TO SOUTHERN PORTION OF ROWAN COUNTY**

Information Systems Director David Boling provided the Board with an update regarding broadcasting the Commission Meetings in the southern portion of Rowan County. Mr. Boling said he had been communicating with David Baxter, Station Manager for Channel 22 regarding the broadcasting; however, there seemed to be numerous issues stalling the process. Mr. Boling also discussed the rates for purchasing airtime.

In summary, Mr. Boling reviewed the following options for the Board's consideration:

1. An official request from Rowan County to Cabarrus County (expect 4-6 months plus labor charges).
2. Purchase airtime.
3. Press Time Warner Cable for a solution and any relief they might provide.

Mike Tanck from Time Warner Cable was in attendance to hear the Board's comments. Mr. Tanck said Time Warner Cable was looking at potential technical options to address the situation. Mr. Tanck said Time Warner Cable did not control the government channels as they were controlled by the governmental entities. Mr. Tanck felt it was a reasonable request to ask Cabarrus County to air taped Rowan County Commission Meetings.

Commissioner Hall asked if there was hope in resolving the matter through Time Warner Cable rather than through Cabarrus County. Mr. Tanck said the situation was hopeful but would there would not be an overnight solution.

Commissioner Barber asked if Time Warner Cable would still have to go through the Cabarrus County Commissioners to air Rowan's meetings and Mr. Tanck said no, as the company would use different technology.

Commissioner Barber said he would be meeting with Cabarrus County Commissioner Bob Carruth on Thursday and that he would ask for Mr. Carruth's understanding and input on situation.

Commissioner Sides agreed that Commissioner Barber should speak with Mr. Carruth and if that communication was not sufficient, perhaps an official delegation from Rowan County should attend a Cabarrus County Commission Meeting or schedule a separate meeting to discuss the matter.

Commissioner Mitchell said it was unacceptable that a large portion of Rowan County citizens were unable to view the meetings.

Commissioner Hall said the Board would be appreciative for any assistance Time Warner Cable could provide in getting the meetings aired.

#### **10. DISCUSSION REGARDING SMITH FAMILY BASEBALL, LLC**

County Attorney Jay Dees said the Board members received his email earlier in the week, as well as a letter from Attorney Lyman Bullard, who represents the Smith Family pertaining the baseball lease. Mr. Dees said he would answer any questions the Board might have.

Commissioner Sides said he would like an opportunity to speak with Brad Smith and see what kind of arrangements might be worked out. Commissioner Sides said he was not ready to vote on extending the same contract and that he would like to report back to the Commission at a future meeting.

The other Board members were in agreement with Commissioner Sides' suggestion.

Chairman Chamberlain appointed Commissioners Sides and Hall to meet with the Smith Family and report back to the Board.

Chairman Chamberlain said he would also like for Commissioners Sides and Barber to report back on meetings that would be forthcoming with the City of Concord.

In response to a query from Commissioner Barber, Mr. Dees confirmed that the County would provide the officials with the City of Kannapolis the full appraisal report on the stadium.

#### **ADDITIONS**

##### **10a. DISCUSSION REGARDING NEGOTIATIONS FOR COUNTY MANAGER'S POSITION**

Commissioner Sides moved to allow Staff to enter into negotiations, with the candidate selected at this point, to be hired by the County as the County Manager. Commissioner Mitchell seconded and the motion passed unanimously.

**10b. DISCUSSION REGARDING SURPLUS PROPERTY LOCATED AT 1127 SOUTH MAIN STREET**

Commissioner Sides said the upset bid process for the property located at 1127 South Main Street had ended earlier in the day at 5:00 pm. Commissioner Sides moved to accept the bid received. The motion was seconded by Commissioner Barber.

In response to a query from Commissioner Mitchell, Commissioner Sides recalled that the Board had established \$68,000 as the minimum bid requirement for the property and the final offer received was \$76,000.

Chairman Chamberlain instructed the Clerk to work with the County Attorney to begin the closing process for the property.

**11. CONSIDER APPROVAL OF BUDGET AMENDMENTS**

The budget amendments were moved from agenda item #11 to agenda item #2a in the order of discussion.

**12. INTERIM COUNTY MANAGER'S MONTHLY ACTIVITY REPORT**

Chairman Chamberlain reported that Interim County Manager/Finance Director Leslie Heidrick was absent due to a family medical emergency. The Board had no questions regarding the information contained in the monthly activity report to the Board.

Commissioner Sides moved, Commissioner Barber seconded and the vote to accept the report as submitted passed unanimously.

**13. ADJOURNMENT**

There being no further business to come before the Board, Commissioner Mitchell moved to adjourn at 9:22 pm. The motion was seconded by Commissioner Barber and passed unanimously.

Respectfully Submitted,

Carolyn Athey  
Clerk to the Board