

**MINUTES OF THE MEETING OF THE
ROWAN COUNTY BOARD OF COMMISSIONERS
June 16, 2008 – 7:00 PM
J. NEWTON COHEN, SR. ROOM
J. NEWTON COHEN, SR. ROWAN COUNTY ADMINISTRATION BUILDING**

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

County Manager Gary Page, 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.

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

CONSIDER APPROVAL OF THE MINUTES

Commissioner Sides moved, Commissioner Barber seconded and the vote to approve the minutes of the June 2, 2008 Commission Meeting passed unanimously.

CONSIDER ADDITIONS TO THE AGENDA

Commissioner Mitchell moved to add an additional board appointment for the Rowan Cabarrus Community College Board of Trustees. The motion was seconded by Commissioner Barber and passed unanimously.

Chairman Chamberlain added the appointment to agenda item #13 (Consider Approval of Board Appointments).

CONSIDER DELETIONS FROM THE AGENDA

Commissioner Barber moved to delete agenda item #11 (Consider Approval of Resolution in Support of NCDOT TIP Project I-3804). The motion was seconded by Commissioner Mitchell and carried unanimously.

CONSIDER APPROVAL OF THE AGENDA

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

1. CONSIDER APPROVAL OF CONSENT AGENDA

Commissioner Barber moved approval of the Consent Agenda. Commissioner Mitchell seconded the motion.

Commissioner Sides said item F, the Resolution for the Rowan Express Transit implementation plan, included a statement that the County would match funds for 20% and cover all costs exceeding the Federal amount of \$450,000.

Commissioner Sides requested that Clyde Fahnestock be advised that the County did not expect the costs to exceed \$450,000.

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

The Consent Agenda consisted of the following items:

- A. Set Public Hearing for July 7, 2008 for Scattered Site/CDBG Application
- B. Set Public Hearing for July 7, 2008 for Z 02-08 for Request from Cecil & Michelle Perry
- C. Approval to Resolution Authorizing County Manager to Negotiate a Contract for Engineering, Design, Construction and Inspection of Water Line for RDH Tire and Retread Company

RESOLUTION TO AUTHORIZE COUNTY MANAGER
TO NEGOTIATE A CONTRACT FOR ENGINEERING DESIGN,
CONSTRUCTION COORDINATION AND INSPECTION OF
WATER LINE EXTENSION FOR RDH TIRE AND RETREAD COMPANY

WHEREAS, after due advertisement for requests for Statements of Qualifications for engineering design, construction coordination and inspection of a water line extension for RDH Tire and Retread Company, it is the recommendation of the Finance Department and Salisbury-Rowan Utilities that the County Manager negotiate a contract with WK Dickson & Co., Inc., and

WHEREAS, the Board of Commissioners is convened in a regular meeting;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Rowan County to authorize the County Manager to negotiate a contract with WK Dickson & Co., Inc. for engineering design, construction coordination and inspection of a water line extension for RDH Tire and Retread Company.

- D. Approval of Additional Funds for Soldier’s Memorial AME Zion Parking Lot
- E. Set Public Hearing for July 7, 2008 for Consideration of Duke Energy Expansion Incentive

- F. Approval of Congestion Mitigation Air Quality Agreement (CMAQ)
- G. Authorization to Apply for FY 2008-09 HCCBG Grant
- H. Approval of Policy, Procedures and Storage Fee Schedule for Rowan County Sheriff's Department

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:

- Larry Wright, 170 Heritage Lane, said some Rowan County citizens went to Raleigh on June 4, 2008 to attend a rally against forced annexation. Mr. Wright thanked Commissioners Chamberlain, Sides and Hall for attending the rally. Mr. Wright said the Legislature needed to hear from everyone on the subject and he asked the Board to consider phoning or writing the Judiciary Committee for their support. Mr. Wright said the North Carolina League of Municipalities and the Salisbury City Council were against the bill to place a moratorium on forced annexation. Mr. Wright also said he supported the Board's decision to eliminate funding for Rowan Jobs Initiative (RJI) due to a conflict of interest that he felt existed.
- Mike Zimmerman, Bostian Heights Volunteer Fire Department (VFD) Chief, thanked the Board for attending the department's public hearing regarding the proposed tax increase. Mr. Zimmerman said all those who spoke at the public hearing had been in favor of the department's one-cent tax increase.
- Mike Miller, 2730 Patterson Road, referred to the Board's discussion during the June 2, 2008 Commission Meeting pertaining to his involvement with RJI. Mr. Miller felt the comments made during the meeting were a personal attack on his integrity. Mr. Miller said he joined RJI in 2005 and had never participated in a vote to award a marketing contract. Mr. Miller said extra steps were taken by existing board members, several of which were attorneys, to ensure there was no conflict of interest for him to serve on the RJI Board. Mr. Miller said any decision that involved his company receiving payments for services rendered was made by the remaining board members. Mr. Miller said his company produced and placed marketing materials for RJI at a great cost savings to the organization, with eighty percent of all funds paid by RJI passing through and being tied solely to pay for advertising. Mr. Miller said he donated product and services and stood by his involvement with RJI. Mr. Miller felt that citizens should be concerned with the style and manner with which the Board chose to make a decision without clarification of facts.
- Paul Fisher, 202 South Fulton Street, discussed RJI and the purpose of its investors, which was to bring new jobs and businesses to Rowan County. Mr. Fisher said it became necessary to find a good, cost-conscious firm to assist in the marketing of the County, and the firm selected was Miller Davis Studios. Mr. Fisher said instead of RJI taking "heat" from its

decision to utilize Miller Davis Studios, the Board should congratulate the RJI members/investors for being good stewards. Mr. Fisher praised Miller Davis for producing Rowan Magazine at a loss and he concluded by asking the Board to apologize to Miller Davis, the RJI Board, and the many investors who were trying to help the Commissioners bring businesses to Rowan County.

Chairman Chamberlain insisted that speakers abide by the three (3) minute time limit for the Public Comment Period.

- Jake Alexander, 8 Woodland Road, said the Board members were the most important and visible elected officials in Rowan County. Mr. Alexander said the Board usually spent a great deal of time reviewing the decisions it made and he commended the Board for that effort. Mr. Alexander said in the case with Mike Miller, the Board had chosen to malign a public servant. Mr. Alexander said the Board had every right to withdraw funding from RJI but he felt the decision was shortsighted and would cost the County jobs. Mr. Alexander said for the last four (4) years, RJI had utilized the services Miller Davis Studios and provided a yearly budget to the County Manager's Office, which was a public record. Mr. Alexander said the "personal attack" on Mike Miller was unfair and disturbing. Mr. Alexander said the Board owed Mr. Miller, the RJI Board and its volunteers, and funding partners an apology.
- Brian Miller, 109 Mitchell Avenue and a board member of RJI, said he recognized the fiscal responsibility of the Board in managing the County's budget. Mr. Miller said redirecting the marketing funds from RJI to the Economic Development Commission (EDC) would undermine RJI's ability to leverage support from the private sector. Mr. Miller said RJI had a 501(c) 3 charter that allowed gifts to be deducted as a charitable donation. Mr. Miller said the issue at hand was the manner in which the Board defamed the character and integrity of Mike Miller and Miller Davis Studios and the others affiliated with the RJI organization. Mr. Miller said he believed the attack on Mike Miller was an effort to discredit a political opponent. Mr. Miller said a complete description of the uses of funds through Miller Davis Studios was available. Mr. Miller said he and many others had spent hours working on behalf of the citizens of Rowan County without personal benefit, monetarily, or recognition.
- Dyke Messinger, 18 Oak Road, asked the Board if they wanted to partner and participate with the private sector to promote jobs in Rowan County. Mr. Messinger said the private sector was trying to bring jobs to Rowan by marketing the County to site selection consultants and real estate brokers. Mr. Messinger highlighted the selling points of Rowan County. Mr. Messinger said the private sector wanted to partner with the Board, but was unsure if the Board wanted to partner with the private sector. Mr. Messinger said the business community could be affected by the Board's decision for many years to come.

- Rusty Alexander, Locke VFD Chief, thanked the Board for coming to the department's public hearing and he expressed hope that the Board would approve the tax increase for Locke, Bostian Heights and Franklin VFD's.
- John Thomason, Jr., Franklin VFD Chief, thanked the Board for attending the department's public hearing and he encouraged the Board to support the budgets for Franklin, Bostian Heights and Locke VFD's.

At this point in the meeting, Chairman Chamberlain moved agenda item #7 (Consider Approval of Budget Ordinances for Fiscal Year 2008-09) to agenda item #2a in the order of discussion.

2a. CONSIDER APPROVAL OF BUDGET ORDINANCES FOR FISCAL YEAR 2008-09

Leslie Heidrick, Finance Director, highlighted the budget ordinances in the packet.

Fund 101 – General Fund

Commissioner Barber moved approval of Fund 101. Commissioner Mitchell seconded and the motion passed 3-2 with Commissioners Sides and Hall dissenting.

Fund 201 – Fire District Fund

Commissioner Barber moved approval of Fund 201. Commissioner Sides said he would like to amend the motion to include the one-cent fire tax increase for Locke, Franklin and Bostian Heights fire districts. Commissioner Mitchell seconded and pointed out that the one-cent increases were incorporated into the budget ordinances. The motion passed unanimously.

Fund 202 – Emergency Telephone System Fund

Commissioner Mitchell moved approval of Fund 202. Commissioner Barber seconded and the motion passed unanimously.

Fund 501 – Risk Management Fund

Commissioner Mitchell moved approval of Fund 501. Commissioner Barber seconded and the motion passed unanimously.

Fund 601 – Landfill Fund

Commissioner Mitchell moved approval of Fund 601. Commissioner Barber seconded and the motion carried unanimously.

Fund 602 – Sports Authority Fund

Commissioner Barber moved approval of Fund 602. Commissioner Mitchell seconded and the motion passed unanimously.

Fund 603 – Airport Fund

Commissioner Barber moved approval of Fund 603. Commissioner Mitchell seconded and the motion passed unanimously.

Chairman Chamberlain said the budget was now officially adopted and the tax rate would remain at 59.5 cents.

Commissioner Hall said in uncertain economic times the County should be “holding back on the reins”, instead of borrowing \$8 million dollars. Commissioner Hall recalled that one Commissioner had commented on several occasions that “some know the cost of everything but the value of nothing”. Commissioner Hall asked if the Board should borrow from savings with the hope that the savings would be repaid, or should the Board, like its citizens, demonstrate restraint.

Commissioner Barber said when considering the budget, the Board should look into the future to understand the County’s long-term needs and how to fund those needs. Commissioner Barber said the Board had received \$16 million in expansion request items. Commissioner Barber said while the budget addressed many of the needs, the budget was not forward looking enough. Commissioner Barber discussed the two (2) largest budget items, which were schools and the County’s payroll, neither of which he felt should be reduced. Commissioner Barber said he stood by his vote last year and again this year for the tax rate. Commissioner Barber said the budget continued to protect the County’s bond rating and he also expressed appreciation for the volunteer fire departments and their budgeting efforts. Commissioner Barber finished by describing the value of the services provided by the volunteer fire departments as a “sweetheart of a deal”.

Commissioner Sides said he had given a conservative effort to reduce the budget in order to reduce the tax rate by one-cent. Commissioner Sides said he previously commented he would not support a tax increase of any type; however, after attending the fire district public hearings, he had changed his mind due to the overwhelming support of those who lived in those districts. Commissioner Sides said he did not want to see twenty-five (25) fire departments ask the Board for a fire tax increase next year. Commissioner Sides said at some point the Board would need to decide how many fire districts the County would have and what kind of services it would provide. Commissioner Sides said he believed the fire tax increase was the right thing to do and he still believed it would have been the right thing to reduce taxes this year for other citizens.

Commissioner Mitchell said he had explained his support of the budget during the budget work sessions. Commissioner Mitchell thanked staff and the Commissioners for their work on the budget, and he thanked the citizens that came out to speak at the Board’s public hearing, and the public hearings held at the three (3) fire departments.

Chairman Chamberlain said he had been doing budgets since 1998 and this had been one of the most enjoyable efforts thus far. Chairman Chamberlain said the Board had worked well together and he expressed appreciation to the

Commissioners for their attitude in realizing what was going on in Rowan County and around the country. Chairman Chamberlain also thanked Ms. Heidrick and her staff for their work on the budget. Chairman Chamberlain said elected officials, candidates or funding partners sometimes take on an attitude of entitlement and that must stop. Chairman Chamberlain said the Board made decisions based on what it thought was best and the public would have to judge the Board with its vote. Chairman Chamberlain said any requests for future fire tax increases would require a public hearing and must take place prior to the Board's budget public hearing.

3. PUBLIC HEARING FOR CLOSING OF AN UNOPENED PORTION OF CANDLEWICK DRIVE

Senior Planner Shane Stewart said six (6) weeks ago the Board approved a Resolution of Intent to close an unopened portion of Candlewick Drive, subject to the public hearing. Mr. Stewart discussed the statute requirements for closing a section of road. Mr. Stewart said Sean Walker, the petitioners' attorney, had provided an order (attachment A in agenda packet) for consideration by the Board.

Mr. Stewart used a power point presentation to show the portion of road proposed to be closed; he also showed the surrounding properties. Mr. Stewart said he was not aware of any petition to open the portion of Candlewick Drive. Mr. Stewart said the property was in the extraterritorial jurisdiction (ETJ) of the City of Salisbury and neither the City nor the Department of Transportation were objecting to the closing.

Mr. Stewart used a topographical map to show the edge of the pavement and the adjoining property. Mr. Stewart discussed the connections to Harrison Road, Jake Alexander and Highway 150 and explained the environmental and development issues of those possible connections.

Staff recommended approval of the request to close the unopened portion of Candlewick Drive.

Commissioner Hall asked if the adjoining property owners supported the closing. Mr. Stewart said the adjoining owners were the Hedricks, who did not sign the petition.

Mr. Walker said he was representing the Champions and the issue was whether to close the small strip of road. Mr. Walker said the Hedricks were the only property owners noticed because they own the only property that adjoins the right-of-way. Mr. Walker said in twenty-eight (28) years the portion of road had never been opened and had been used as part of the Champions' yard. Mr. Walker distributed a map and discussed the limitations due to the flood plain zone. Mr. Walker said because of the limitations, the development of the Hedrick property was impractical.

Chairman Chamberlain opened the public hearing to receive citizen input pertaining to closing an unopened portion of Candlewick Drive. The following citizens came forward:

- Randy Reamer, attorney representing the Hedrick family, said the Hedricks were opposed to the petition because they were considering development of the property. Mr. Reamer provided a history of the Champion property and provided the Clerk with a map of the Woodbridge Run subdivision. Mr. Reamer said the Champions bought the property by Deed (copy of deed also provided to the Clerk) in 1999, which did not include the strip of land in question. Mr. Reamer said the land was publicly dedicated and not owned by the Champions. Mr. Reamer said the Hedricks want the strip to stay open because of Grants Creek; he said the only access, other than crossing the creek, for the Hedricks was through Woodbridge Run. Mr. Reamer read North Carolina General Statute 160a-299 and said the City of Salisbury should be considering the petition. Mr. Reamer estimated the tax value of the property in questions at \$2500. Mr. Reamer referred to previous comments made by Mr. Stewart and said the property does have connectivity; it wasn't isolated and there were city sewer lines down the middle of the property. Mr. Reamer concluded by saying that John Casey, a real estate broker, believed the current flood map was not accurately portrayed on the drawing.
- John Casey, real estate broker, said three weeks ago he hired an environmental company to determine what the property could be used for. Mr. Casey said the family would incur a lot of expense to get access to the property if the portion of road were to be closed. Mr. Casey said the Hedricks were trying to use the property for growth and development.
- Jo Ann Johnson, Hedrick property owner, said the portion of road in question was the only access to the property on the west side of Grants Creek. Ms. Johnson said closing the property would eliminate options for development of the property.

In response to Commissioner Sides, Mr. Stewart speculated where the new roadway and the Champions driveway connection would be developed.

- Donald Champion, petitioner, said the area marked out for the driveway was extremely short and entered the road at an angle, possibly creating a safety hazard.

Commissioner Sides asked Mr. Champion if he understood the right-of-way was there when he purchased the property. Mr. Champion said the house was already built and the driveway already present when he purchased the property. Mr. Champion said the realtor did not mention the easement existed.

Commissioner Sides commented that an easement is normally recorded in the deed and Mr. Champion responded that they were aware of the easement after the fact.

Commissioner Sides asked if Mr. Champion could reroute the driveway some other way if the road were opened. Mr. Champion responded he could not reroute the driveway because of the way his garage was situated.

Commissioner Mitchell asked the County Attorney Jay Dees to comment on the issue of the Board or City's authority to make the decision to close the road. Mr. Dees responded that he did not research beyond the statute that gives the County the authority to make a decision outside city limits. Mr. Dees said the issue should not stop the Board from deliberating and making its decision.

Commissioner Hall asked if Mr. Champion could have some legal recourse for not being made aware of the easement. Mr. Dees said even though Mr. Champion may not have known about the easement, he was responsible for record notice of any title issues and exceptions.

Mr. Walker clarified the statute he believed was applicable to the situation portends that the closing was going to involve a publicly dedicated right-of-way. Mr. Dees added that Staff knew the property was in the ETJ, hence the communication with the City for their review and opportunity to raise objections.

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

Mr. Dees said there are two (2) specific findings the Board should consider: 1) that the decision is not contrary to the public interest, and 2) that it would not deprive an adjoining landowner of reasonable access.

Commissioner Sides moved to disallow the closing of Candlewick Drive. The motion was seconded by Commissioner Hall.

Commissioner Sides said his motion was based on the two (2) reasons given by the County Attorney, and that he felt the closing did not meet those requirements.

Commissioner Mitchell was of the opinion that it did not violate the public's interest to close the road, but he did believe it denied reasonable access to the backside of the property. Commissioner Mitchell said testimony had been given that the access was the only access west of Grants Creek.

Upon being put to a vote, the motion to deny the closing of the portion of road passed unanimously.

Chairman Chamberlain called for a short recess at 8:30 pm.

Chairman Chamberlain reconvened the meeting at 8:45 pm.

4. PUBLIC HEARING FOR STA 01-08

Planner Andy Goodall reviewed the Staff Report regarding proposed text amendments to the Rowan County Subdivision Ordinance.

Existing text in the ordinance proposed to be removed appears as ~~strikethroughs~~ and proposed text appears as ***bold italic***.

Section 10. Other Definitions.

Observed right-of-way. The area recognized in the Cabarrus-Rowan Metropolitan Planning Organization (CRMPO) 2002-2030 Long Range Transportation Plan and referenced in Appendix A that may be utilized for future transportation improvements.

Right-of-way. Means the base setback line that is the greater of either the line dividing the public right-of-way currently or a line thirty (30) feet measured in a perpendicular distance and parallel to the centerline of the street pavement, superseded by the observed right-of-way or the area recognized in the Cabarrus-Rowan Metropolitan (CRMPO) 2002-2030 Long Range Transportation Plan and referenced in Appendix A that may be utilized for future transportation improvements.

Principle arterial. A rural link in a ***highway system serving travel, and having characteristics indicative of, substantial statewide or interstate travel and existing solely to serve traffic.*** ~~network of continuous routes serving movements having trip length and travel density characteristics indicative of substantial statewide or interstate travel and existing solely to serve traffic. This highway system would consist of interstate routes and other routes designed as principal arterials.~~

Minor arterial. A rural ***roadway*** ~~link in a network joining cities and larger towns and providing intrastate and inner-county service at relatively high overall travel speeds with minimum interference to through movement. This network would primarily serve traffic.~~

Major thoroughfares. Major thoroughfares consist of interstate, other freeway, expressway, or parkway roads, and major streets that provide for the expeditious movement of high volumes of traffic within and through urban areas.

Minor thoroughfares. Minor thoroughfares perform the function of collecting traffic from local access streets and carrying it to the major thoroughfare system. Minor thoroughfares may be used to supplement the

major thoroughfare system by facilitating minor through-traffic movements and may also serve abutting property.

Service road. A road that runs parallel to a principal arterial or interstate and provides indirect access to and from properties or facilities abutting the interstate principle arterial via an interchange.

Section 57(c)(1)(b). The sub-divider shall deposit cash, an irrevocable letter of credit **from an institution with a physical presence in the State of North Carolina**, or other instruments readily convertible into cash at face value, either with the county or in escrow with a financial institution designated as an official depository of Rowan County.

Section 59(2). **The following notation shall appear on all final plats of major subdivisions with private streets:**

This subdivision contains private streets and storm drainage that were designed to NCDOT standards but will be maintained by the developer until the collective lot owners assume this responsibility. Enforcement of the maintenance certificate is the responsibility of the collective lot owners, not Rowan County. Additionally, NCDOT and Rowan County are not responsible for any maintenance associated with these improvements.

Section 59(2). **The following notation shall appear on all final plats of major subdivisions with public streets:**

The street and storm drainage system in this subdivision were designed to NCDOT standards, but will be maintained by the developer pending acceptance by NCDOT. Enforcement of the maintenance certificate is the responsibility of the collective lot owners, not Rowan County. Rowan County is not responsible for any maintenance associated with these improvements. Additionally, NCDOT is not responsible for any maintenance associated with these improvements unless formally accepted.

Section 77(e). **Rowan County does not guarantee the suitability of any lot for the placement of a sewage disposal and/or water supply system.**

Section 79(a)(8). ~~Right-of-Way Dedication~~ **Observation:** All new lots having frontage on a state or publicly maintained road where no right-of-way is recorded by deed or plat, shall be required to **observe** a sixty-foot right-of-way, i.e. thirty feet (30') from roadway centerline, **unless otherwise suggested in Appendix A.**

Section 80(d). ~~Frontage Access Street.~~

~~Where a tract of land to be subdivided adjoins a major or minor thoroughfare as designated on the Thoroughfare Plans for Rowan County, Salisbury and surrounding vicinity, or Rowan portion of the KanLaCon Area (Kannapolis,~~

~~Enochville, Landis, and China Grove and surrounding vicinity), the subdivider may be required to provide a frontage access street parallel to the major street for lots to be developed adjacent to a major thoroughfare. Where reverse frontage is established, private driveways may be prevented from having direct access to the thoroughfare. When it is not feasible or practical for a subdivider to provide a frontage access street, or when the Subdivision Administrator or Board of Commissioners determines that the installation of a frontage access street would result in a less desirable subdivision design, the Subdivision Administrator or Board of Commissioners shall find that the spirit and intent of this ordinance are preserved and that the circumstances particular to the subject property, such as topography or shape of the tract exist to warrant the exception.~~

Preceding sub-sections will become:

(d) Access to Adjacent Properties.

(e) Nonresidential Streets.

(f) Street Design Standards.

(g) Other Requirements.

(h) All-Weather Access Road for Water Point Sources.

Section 80(f). Street Design Standards.

~~The provision of street right-of-way shall conform to and meet the requirements of the thoroughfare plan of Rowan County and of the thoroughfare plan of any municipality within Rowan County which has a thoroughfare plan adopted by its governing body and the North Carolina Board of Transportation.~~

~~The urban planning area shall consist of that area within the urban planning boundary of any municipality as depicted on that municipality's mutually adopted thoroughfare plan. The rural planning area shall be that area outside the urban planning boundary of any municipality.~~

Section 111(c). Major subdivision proposals equal to or greater than fourteen (14) lots **are** subject to the requirements of this ordinance, **in which all** lots must be located within one (1) road mile of a water point source as certified by the Rowan County Fire Marshal and the chief of the fire department having jurisdiction, otherwise the sub-divider shall be responsible for providing or participating with the fire department with responding jurisdiction in installation of a water point source.

Section 111(c)(2). In-ground cistern or above ground water tank. Installation of a cistern or above ground tank must be provided at a location in, adjacent to or within one **(1)** road mile of **all lots in** a proposed major subdivision. The cistern or tank should hold a minimum of 30,000 usable gallons and be designed, constructed, installed and maintained in accordance with NFPA 22.

Section 111(c)(3). Pond. Construction of a pond must be provided at a location in, adjacent to or within one (1) road mile of **all lots in** the proposed subdivision.

Construction of the pond and installation / use of a float dock or dry hydrant for drafting of water shall be in accordance with standards and practices of NFPA 1142. The pond must have the capacity to maintain in excess of 30,000 gallons **as certified by a certified hydrologist, professional engineer, or a staff member of the Rowan County Soil and Water Conservation District** to account for seasonal variations and water availability / sediment below the strainer, **and/or** ~~Existing ponds intended for use to comply with the requirements of this article must have the water capacity certified~~ **be able** to withstand a fifty (50) year drought **as certified** by a certified hydrologist, professional engineer, or a staff member of the Rowan County Soil and Water Conservation District. Ponds created through the use of existing streams or by continuous fill from a ground water well, must also obtain the drought tolerance certification from any of **the** aforementioned sources.

JANUARY 28, 2008 PLANNING BOARD MEETING

The Planning Board voted unanimously (8-0) to recommend approval of this request.

PROCEDURES

A Statement of Consistency is necessary to address the relationship with any applicable county adopted plans before making a recommendation to approve or deny the request (See *Attachment B*).

Chairman Chamberlain opened the public hearing to receive citizen input regarding STA 01-08.

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

Commissioner Sides moved approval of the Statement of Consistency. Commissioner Mitchell seconded and the motion passed unanimously.

Commissioner Sides moved to approve STA 01-08. Commissioner Mitchell seconded and the motion passed unanimously.

Commissioner Sides noted the Statement of Consistency also included approval of ZTA 01-08 and he moved approval of ZTA 01-08. The motion was seconded by Commissioner Mitchell and passed unanimously.

Chairman Chamberlain took a moment to praise Staff for their hard work in preparing the text amendments for STA 01-08 and ZTA 01-08.

5. PUBLIC HEARING FOR ZTA 01-08

Planner Andy Goodall submitted the Staff Report in the agenda packets regarding proposed text amendments to the Rowan County Zoning Ordinance.

Existing text in the ordinance proposed to be removed appears as ~~strikethroughs~~ and proposed text appears as **bold italic**.

Section 21-4. Definitions.

Observed right-of-way. The area recognized in the Cabarrus-Rowan Metropolitan Planning Organization (CRMPO) 2002-2030 Long Range Transportation Plan and referenced in Appendix A that may be utilized for future transportation improvements.

*Right-of-way. Means the base setback line that is the greater of either the line dividing the public right-of-way currently or a line thirty (30) feet measured in a perpendicular distance and parallel to the centerline of the street pavement, **superseded by the observed right-of-way or the area recognized in the Cabarrus-Rowan Metropolitan (CRMPO) 2002-2030 Long Range Transportation Plan and referenced in Appendix A that may be utilized for future transportation improvements.***

Section 21-61. Parallel conditional use districts.

<i>General Zoning Districts</i>	<i>Parallel Conditional Use Districts</i>
RS	RS (CUD)
RR	RR (CUD)
RA	RA (CUD)
MHP	MHP (CUD)
MFR	MFR (CUD)
CBI	CBI (CUD)
85-ED-1	85-ED-1 (CUD)
85-ED-2	85-ED-2 (CUD)
85-ED-3	85-ED-3 (CUD)
85-ED-4	85-ED-4 (CUD)
IND	IND (CUD)
NB	NB (CUD)
<i>INST</i>	<i>INST (CUD)</i>

Section 21-113. Table of Uses

<u>P- Permitted by Right</u>												
P(A) - Permitted as Accessory Use												
SR - Permitted with Special Requirements		Zoning Districts										
C- Conditional Use		Residential					Nonresidential					
Use		RA	RR	RS	MHP	MFR	CBI	NB	INST	IND		
<i>Agriculture, forestry and fishing</i>												
07	Agricultural Services, all except	P	P	P	P	P	P					
074	Veterinary Services	SR	SR	SR	SR	SR	SR					
	<i>Animal Shelters, Boarding Kennels, Dog Pounds</i> <i>0752(pt)</i>		<i>SR</i>					<i>P</i>				

JANUARY 28, 2008 PLANNING BOARD MEETING

The Planning Board voted unanimously (8-0) to recommend approval of this request.

PROCEDURES

A Statement of Consistency is necessary to address the relationship with any applicable county adopted plans before making a recommendation to approve or deny the request (See *Attachment B*).

The adoption of the Statement of Consistency and motion to approve ZTA 01-08 was handled in the public hearing for STA 01-08 (above).

6. PRESENTATION REGARDING REVISIONS TO SEDIMENTATION AND EROSION CONTROL ORDINANCE

Planning and Development Director Ed Muire explained that Staff had initiated revisions to the Sedimentation and Erosion Control Ordinance for two (2) purposes:

1. Obtain compliance with current statutory standards. Monitoring of the program by NC DENR officials recognized several program inadequacies based on the existing ordinance. Staff research indicates the current ordinance has not been revised since January 1993 and numerous revisions to the statutes and model ordinance have occurred during this fifteen (15) -year period as a result of advancements and understanding of engineering and design techniques and case law.
2. Incorporate standards to address secondary and cumulative impacts for development projects in the Town Creek sewershed district. The text included in Section 18-24 (c) [beginning on line 16 of page 10 and continuing through to line 43 on page 12] in the draft ordinance contains

the same regulatory concepts accepted by the Board of Commissioners on 12-03-07.

Mr. Muire reported that NC DENR's Division of Land Resources (DLR) Staff and the Attorney General's Office reviewed the draft version of the ordinance and provided over one hundred (100) comments. Based on their comments, Staff made revisions to the draft ordinance as appropriate and returned it to DLR Staff for additional review. Their final edits were related to the appeal process.

Mr. Muire said on page 16, there was a provision for retention of a consultant. Mr. Muire said he anticipated the Board would adopt a fee schedule that would cover the costs. Mr. Muire said the County was in the selection phase for a consultant to review the erosion control plans and the deadline to submit the statement of qualifications was June 13, 2008.

Mr. Muire asked the Board to schedule a public hearing for July 7, 2008 to consider approval of the ordinance revisions. Mr. Muire said following the hearing, staff would request approval of a fee schedule and selection of a vendor to review erosion control plans.

Mr. Muire said another substantial change was allowing the Board of Adjustment to hear plan appeals. Mr. Muire said if the applicant felt staff or the consultant made an error in judgment, they could appeal to the Board of Adjustment who would forward a recommendation to the Commissioners for a final decision.

Commissioner Mitchell asked if the ordinance represented the bare minimum the State would accept. Mr. Muire said the ordinance met the minimum requirements. Mr. Muire explained the changes were made to the existing ordinance as opposed to adopting the State's model ordinance.

Commissioner Mitchell asked for some insight into the creation of additional floodplain beyond what FEMA created. Chris Hopper, Biologist for Robert J. Goldstein and Associates, said the additions are "stream buffers". Mr. Hopper explained the extension of the floodplain makes it more palatable.

In response to Commissioner Mitchell, Mr. Hopper clarified the limitations on development in floodplain areas.

Commissioner Barber asked if it would take the current ordinance off probation if the Board adopted the ordinance and contracted with a third party to do plan reviews. Mr. Muire said as staff understood, that would be correct. Mr. Muire clarified that staff may use a consultant, but the County still had the authority to impose the regulations.

Commissioner Barber asked if the County would be consistently reliant on a third party or would the County be able to bring the work back in-house. Mr. Muire

said the immediate need was to revise the ordinance and have someone qualified to review the plans. Mr. Muire said the County could look at bringing the job back in-house later.

Commissioner Barber said the County would raise the fees initially to cover the cost of the third party. Commissioner Barber asked if the County would review the fee structure again if the work were brought back in-house. Mr. Muire said to some degree the program was subsidized by the general population of the County but the services were really only needed by the developer. Mr. Muire said the fees were a way to pass the costs for review back to the developer.

Commissioner Sides called the question and moved to receive the Staff Report and to set a public hearing for July 7, 2008 to consider revisions to the Sedimentation and Erosion Control Ordinance. The motion was seconded by Commissioner Mitchell and passed unanimously.

7. CONSIDER APPROVAL OF BUDGET ORDINANCES FOR FISCAL YEAR 2008-09

Chairman Chamberlain previously moved agenda item #7 to agenda item #2a in the order of discussion.

8. CONSIDER APPROVAL OF LEASE EXTENSION FOR NC ROTOR AND WING

Ken Deal, Director of Administration, said the Board had received information from County Attorney Jay Dees regarding the terms of the contract. Mr. Deal said he had not received a response from Todd Henrikson with NC Rotor and Wing and was therefore assuming the contract terms met with Mr. Henrikson's approval.

Commissioner Sides said he had reviewed the information and was satisfied with what the changes made by Mr. Dees.

Commissioner Sides moved to accept the lease extension for NC Rotor and Wing. Commissioner Hall seconded and the motion passed unanimously.

9. CONSIDER APPROVAL OF EXTENSION FOR FIXED BASED OPERATOR AGREEMENT FOR CAROLINA AVIONICS

Ken Deal, Director of Administration, explained that County Attorney Jay Dees had provided the Board with suggested changes for the lease extension for Carolina Avionics. Mr. Deal said Gary Jenkins of Carolina Avionics was in agreement with the contract terms.

Commissioner Mitchell moved, Commissioner Barber seconded and the vote to approve the Limited Fixed Base Operator Agreement for Carolina Avionics passed unanimously.

10. DISCUSSION REGARDING CONTRACT WITH SMITH FAMILY BASEBALL, LLC

Chairman Chamberlain said he had appointed Commissioners Hall and Sides as a committee to enter into negotiations pertaining to the contract extension with Smith Family Baseball, LLC. Chairman Chamberlain said the Committee had held several meetings with the Smiths and were ready to update the Board concerning the negotiations.

Commissioner Sides provided an extensive summary of the Committee's discussions in the agenda packets. Commissioner Sides reviewed the summary and said several counteroffers had been made to the Smiths; the attempts to negotiate the terms of the contract had been unsuccessful.

Commissioner Sides said it was the recommendation of the committee that the County and Smith Family Baseball revert to the original lease as modified by the May 5, 2000 Addendum to the Lease and that the terms disagreed upon by the two (2) parties be resolved by whatever action, legal or otherwise, was necessary. Commissioner Sides said he would prefer the two (2) attorneys to meet to dissolve the issues. Commissioner Sides said the effective date of the agreement would revert back to March 1, 2008 by default. An accounting by the Rowan County Finance Staff would be necessary to determine what funds were due from Smith Family Baseball to Rowan County and what funds were due to Smith Family Baseball from Rowan County, with any credits being given for funds previously paid by either party.

Commissioner Hall commented that she was surprised Smith Family Baseball turned down the proposals.

Commissioner Barber shared several comments regarding the history of the situation. Commissioner Barber felt the Board should "keep the baseball team playing" and that the lease should be kept separate from the ownership issues with the City of Kannapolis. Commissioner Barber was of the opinion that neither party had breached the current lease agreement and there was "no real dispute at this point." Commissioner Barber said he hoped the Board could continue the negotiations in good faith without the need for outside assistance at this time.

Commissioner Barber said the issues in question were 1) the amount of the current lease being paid, and 2) who is responsible for landscape maintenance, and 3) the cost of the utilities in the off-season.

Commissioner Barber addressed the above issues saying the recent appraisal regarding the stadium had indicated the current lease rate of \$75,000 was a fair market rate. Commissioner Barber said the short-term intangibles the County received for leasing the stadium were economic development and quality of life. Commissioner Barber said in regards to landscape maintenance and utilities, it appeared the County wanted to ensure that it was covering its costs for these

efforts. Commissioner Barber said the Smith Family had indicated they would consider continuing their landscape maintenance efforts based upon the lease amount. Commissioner Barber said the Board might wish to revisit previous Board's discussions to lease out the facility in the off-season to offset the costs of maintenance and utilities. Commissioner Barber said the Board should also keep in mind that there was approximately \$400,000 in cash in the Enterprise Fund that could be used to support any costs that might not have been budgeted.

Commissioner Barber posed the following for the Board's consideration:

- The County could propose an extended two (2) year lease that would cover the annual utility budgeted costs with Smith Family Baseball continuing landscaping maintenance
- Explore options with the Convention and Visitors Bureau to see what assistance was available for leasing the park during the off-season
- Extend a courtesy to the City of Kannapolis to be involved in negotiations since they have ownership in the park

Commissioner Barber said if negotiations stopped with the Smith Family, Rowan County would be responsible for all costs.

Chairman Chamberlain called for a short recess at 9:15 pm.

Chairman Chamberlain reconvened the meeting at 9:23 pm.

Commissioner Sides moved that Rowan County and Smith Family Baseball revert to the original lease as modified by the May 5, 2000 Addendum. Commissioner Hall seconded and the motion passed 4-1 with Commissioner Barber dissenting.

Chairman Chamberlain commented that he was the baseball fanatic on the Board and that he did "not want to see any baseball go away". Chairman Chamberlain expressed hope that the majority of the Board had just decided to bring the discussions to a new beginning. Chairman Chamberlain said the City of Kannapolis had assured Rowan County that ownership issues in the stadium did not involve the negotiations with the Smith Family.

11. CONSIDER APPROVAL OF RESOLUTION IN SUPPORT OF NCDOT TIP PROJECT I-3804

This item was deleted from the agenda.

12. CONSIDER APPROVAL OF BUDGET AMENDMENTS

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

- Finance – To increase the budget in the revenue and expenditure accounts for additional occupancy tax - \$30,000

- Department of Social Services – To budget Child Support Incentive funds that must be re-invested into the Child Support Program (Increase in revenues and expenditures) - \$20,144
- Finance – To increase the fire department budget to allow for increased collections - \$111,000
- Finance – To allocate funds for repair of sewage system at Dan Nicholas Park - \$25,000
- Finance – To allocate funds for renovations at the “Silver Eagle” building to house Maintenance Staff. If renovations are started immediately, Maintenance should be able to move by October 1, 2008, resulting in a decrease in rental payments in FY 2009 of approximately \$29,700.

Commissioner Mitchell moved approval of the budget amendments. The motion was seconded by Commissioner Barber.

Commissioner Sides referred to the budget amendment for the Silver Eagle Building and requested that any work on the building be directed through the County Manager. Commissioner Sides requested that the County Manager keep the Board informed on the project and he said the project needed to move as quickly as possible. Commissioner Sides emphasized that the building was a temporary site and that he did not want the County spending money as though the location would be permanent.

Upon being put to a vote, the motion to approve the budget amendments as presented passed unanimously.

13. CONSIDER APPROVAL OF BOARD APPOINTMENTS **BOARD OF SOCIAL SERVICES**

Carl Ford’s term ends June 30, 2008 and he submitted an application for reappointment. The term would be for three (3) years beginning July 1, 2008, expiring June 30, 2011.

Commissioner Sides nominated Carl Ford and the nomination passed unanimously.

Chairman Chamberlain commented that Mr. Ford was a County Commission candidate and if elected, Mr. Ford or Commissioner Sides would have to resign from the DSS Board.

CHARLOTTE REGIONAL PARTNERSHIP BOARD (CRPB)

Steve Fisher submitted an application for reappointment. In order for Mr. Fisher to be reappointed, the Board needed to waive the term limits in the Resolution adopted by the Board in 1999. The term would be for one (1) year beginning July 1, 2008 and expiring June 30, 2009.

Commissioner Barber moved to waive the term limits of the Resolution. The motion was seconded by Commissioner Mitchell and passed unanimously.

Commissioner Barber nominated Steve Fisher and the nomination carried unanimously.

REGION F AGING ADVISORY COMMITTEE

Dot Hauss' term as an alternate will expire June 30, 2008, and she submitted an application to serve as a regular member. Ms. Hauss would fill the vacancy created by Robbie Davis' resignation. The term would be for two (2) years beginning July 1, 2008, expiring June 30, 2010.

Commissioner Mitchell nominated Dot Hauss to fill Robbie Davis' vacancy and the nomination passed unanimously.

Manie Richardson submitted an application for reappointment. The term would be for two (2) years beginning July 1, 2008 and expiring June 30, 2010.

Commissioner Mitchell nominated Manie Richardson and the nomination carried unanimously.

TOURISM DEVELOPMENT AUTHORITY (TDA)

NC Session Law 92vc requires a representative of hotels, motels or other taxable tourist accommodations to serve on this Board. David Redden, the current hotel representative (Holiday Inn) will complete his term June 30, 2008. Suzanne Jones, who also works for the Holiday Inn, submitted an application to replace Mr. Redden. The term would be for two (2) years beginning July 1, 2008, expiring June 30, 2010.

Chairman Chamberlain said the Board would like additional applications for consideration. Chairman Chamberlain addressed James Meacham, Executive Director of the Convention and Visitors Bureau, and who was in the audience, to provide the Board with at least two (2) additional applications for consideration during the July 7th, 2008 Commission Meeting.

The following applications were received for two (2) vacant At Large Positions:

- Michelle Patterson
- Wendy Wilson
- Dink Safrite
- Robert Fallis

The terms would be for two (2) years beginning July 1, 2008, expiring June 30, 2010.

Commissioner Sides nominated Dink Safrite and Robert Fallis and the nomination passed unanimously.

ECONOMIC DEVELOPMENT COMMISSION (EDC)

There are four (4) positions open. The terms would be for three (3) years beginning July 1, 2008, expiring June 30, 2011. The EDC recommended the following applicants for consideration:

- Harold Earnhardt (reappointment)
- Eric Slipp
- James Greene

The following applications were also received:

- Dink Safriet
- Randall S. Gettys
- Rodney Cress
- Leonard Kobylus, Jr.
- Nancy Bilson
- Sharon Hall
- Bill Owens
- Raymond Coltrain (reappointment)
- D. Robert Trundle
- Alan Burke
- Brian Spencer
- Alan King
- R. Wayne Ford, Jr.
- E. Hayes Smith

Commissioner Sides nominated Harold Earnhardt for reappointment, James Greene, Randall Gettys and E. Hayes Smith.

Commissioner Mitchell nominated Eric Slipp and Alan King.

Chairman Chamberlain said the Board would vote for four.

The nomination to reappoint Harold Earnhardt passed unanimously.

The nomination to appoint James Greene passed unanimously.

The nomination for Randy Gettys passed 3-2 with Commissioners Barber and Mitchell dissenting.

The nomination for E. Hayes Smith passed 3-2 with Commissioners Barber and Mitchell dissenting.

ROWAN COUNTY COMMUNITY COLLEGE BOARD OF TRUSTEES (RCCC)

RCCC recommended the reappointment of Patricia Fulcher. The term would be for four (4) years beginning July 1, 2008 and expiring June 30, 2012.

Chairman Chamberlain said a board application for Nancy Bilson was added at the beginning of the meeting for consideration.

Chairman Chamberlain recommended that Nancy Bilson be appointed to replace George Knox, who had resigned due to ill health; he also recommended Patricia Fulcher for reappointment. The nominations passed unanimously.

SENIOR SERVICES ADVISORY COUNCIL (SSAC)

The SSAC recommended the following individuals for reappointment:

- John Larson
- Dot Hauss

The SSAC requested the Board waive the term limits in the Resolution adopted by the Board in 1999 in order to reappoint Hazel Sofley.

The terms would be for three (3) years beginning July 1, 2008 and expiring June 30, 2011.

Thomasina Paige's term is ending on the SSAC and she does not wish to be reappointed at this time. This vacancy will create two (2) positions to be filled.

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

Commissioner Sides nominated John Larson, Dot Hauss and Hazel Sofley (to be reappointed). The nomination passed unanimously.

JUVENILE CRIME PREVENTION COUNCIL (JCPC)

Lisa Kraft and Allene McNeil submitted applications for reappointment. The terms would be for two (2) years beginning July 1, 2008, expiring June 30, 2010.

Terry King's term expires June 30, 2008 and he submitted an application for reappointment. In order for Mr. King to be reappointed, the Board would need to waive the term limits in the Resolution adopted by the Board in 1999. The term would be for two (2) years beginning July 1, 2008 and expiring June 30, 2010.

Janet Ruffin will complete her allowable number of terms June 30, 2008 and she does not wish to be reappointed at this time. Troy Russell submitted an application to fill this vacancy. The term would be for two (2) years beginning July 1, 2008 and expiring June 30, 2010.

Commissioner Sides nominated Troy Russell to replace Janet Ruffin and he moved to defer the other appointments until additional applications were received.

Chairman Chamberlain said the Lisa Kraft, Allene McNeil and Terry King were up for reappointment and the Board was requesting other applications. Chairman Chamberlain said the Board's inclination was not to reappoint those members.

The nomination for Troy Russell passed unanimously.

NURSING HOME ADVISORY COUNCIL

The Nursing Home Advisory Council recommended the appointment of Barbara Mallett. The term would be for three (3) years beginning June 1, 2008 and expiring May 31, 2011.

Commissioner Sides nominated Barbara Mallett and the nomination carried unanimously.

Allene Louie submitted a letter of resignation, which would leave the Council with seven (7) vacancies.

Commissioner Mitchell moved to accept Allene Louie's resignation. The motion was seconded by Commissioner Barber and passed unanimously.

SOUTH SALISBURY VFD BOARD OF TRUSTEES

The South Salisbury VFD is requesting the replacement of Benny Poston since he has moved out of South Salisbury's district. The following individuals were recommended for consideration:

- Joshua Eller
- Chris Naylor
- Jason Burnett
-

The term of appointment would be through December 31, 2008, at which time the new appointee would be eligible for reappointment.

Commissioner Sides nominated Joshua Eller and the nomination carried unanimously.

ROWAN COUNTY BOARD OF HEALTH

Susan Thomas was appointed to serve the remaining term of Mary Henley on May 5, 2008. The term ending date should have been listed as December 31, 2010.

Commissioner Mitchell moved to adjust Susan Thomas' term ending date to December 31, 2010. Commissioners Sides and Barber seconded and the motion passed unanimously.

Chairman Chamberlain said the Board needed additional board applications, especially for the JCPC and TDA. Chairman Chamberlain instructed the Clerk to work towards obtaining the additional applications.

14. ADJOURNMENT

There being no further business to come before the Board, Commissioner Barber moved to adjourn at 9:36 pm. The motion was seconded by Commissioner Mitchell and passed unanimously.

Respectfully Submitted,

Carolyn Athey
Clerk to the Board