

**MINUTES OF THE MEETING OF THE  
ROWAN COUNTY BOARD OF COMMISSIONERS  
November 17, 2008 – 7:00 PM  
J. NEWTON COHEN, SR. ROOM  
J. NEWTON COHEN, SR. ROWAN COUNTY ADMINISTRATION BUILDING**

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

County Manager 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 Sides provided the Invocation and also led the Pledge of Allegiance.

Chairman Chamberlain said the current meeting was the last business session from himself and Commissioner Sides for at least two (2) years. He then recognized Commissioners-elect Carl Ford and Raymond Coltrain.

**CONSIDER APPROVAL OF THE MINUTES**

Commissioner Sides moved, Commissioner Barber seconded and the vote to approve the minutes of the November 3, 2008 Commission Meeting passed unanimously.

**CONSIDER ADDITIONS TO THE AGENDA**

Commissioner Mitchell moved to add a request to set two (2) public hearings for December 1, 2008 for consideration of two (2) address changes along NC 801 Highway. The motion was seconded by Commissioner Sides and passed unanimously.

The request was added to the Consent Agenda.

## **CONSIDER DELETIONS FROM THE AGENDA**

There were no deletions from the agenda.

## **CONSIDER APPROVAL OF THE AGENDA**

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

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

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

The Consent Agenda consisted of the following items:

- A. Approval of Amendments to Tax Administration Records Retention Schedule from the NC Department of Cultural Resources
- B. Approval of Funding Allocation Revisions for Juvenile Crime Prevention Council
- C. Set Two (2) Public Hearings for December 1, 2008 for Change of Physical Addresses Along NC 801 Highway (Addition to the agenda)

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

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

- Rodney Cress directed his comments to Commissioners Chamberlain and Sides and thanked them for their hard work during their terms. Mr. Cress also thanked them for their kindness to him as a citizen and said he hoped to see them back in the future. Mr. Cress said he knew both Commissioners would continue to serve the citizens.

Chairman Chamberlain and Commissioner Sides said Mr. Cress' comments meant a lot to both of them.

- Larry Wright congratulated Commissioners-elect Raymond Coltrain and Carl Ford. Mr. Wright thanked Chairman Chamberlain, Commissioner Sides and the current Board members for their service during the past year and for a job well done.

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

### **3. RECOGNITION OF RETIRING REGISTER OF DEEDS BOBBIE EARNHARDT**

Chairman Chamberlain called Bobbie Earnhardt and her husband, Oron, forward. Chairman Chamberlain said Ms. Earnhardt had served as Register of Deeds for a long time and that she had done an excellent job.

Chairman Chamberlain highlighted Ms. Earnhardt's employment history with the County, and said she was hired May 20, 1985 as a clerk in the Register of Deeds Office. She was deputized several months later and became the Assistant Register of Deeds in 1987. Ms. Earnhardt was then sworn in as the Register of Deeds on January 22, 1992.

Chairman Chamberlain described Ms. Earnhardt's husband as a "good man". Chairman Chamberlain said the couple had three children and four grandchildren and he humorously added that Ms. Earnhardt had two "granddogs" and one "grandcat".

Chairman Chamberlain said both Oron and Bobbie had affected a lot of lives and Rowan County was "better off because of you both". Chairman Chamberlain emphasized that Ms. Earnhardt had done an outstanding job as Register of Deeds.

Chairman Chamberlain read from a plaque, which he presented to Ms. Earnhardt. The presentation was followed by a standing ovation and a round of applause.

Chairman Chamberlain recognized John Brindle who was in the audience. Mr. Brindle will begin his service as Rowan County's new Register of Deeds on December 1, 2008.

**4. CONSIDER APPROVAL OF TEMPORARY USE PERMIT APPLICATION 01-08 FROM HAZEL HOLDER PALMER ESTATE (CONTINUED FROM OCTOBER 20, 2008)**

Chairman Chamberlain reported that since the October 20, 2008 Commission Meeting, all Board members had visited the site to meet with Dan Graham of the North Carolina Department of Environment and Natural Resources (DENR) and adjoining property owner Rickey Morgan. Several Commissioners also met with Mel Howell, consultant with HS&E.

Mr. Stewart referred to page 3 of the Staff Report and pointed out that the unit's hours of operation had been reduced at the request of Mr. Morgan; however, he said since two (2) adjoining wells were contaminated, reducing the hours further should not be an option. Mr. Stewart said a berm or evergreen screen could be applied to reduce both the noise and odor levels but should only be considered if the 16-hour per day operation time was kept since this was Mr. Morgan's primary concern.

Chairman Chamberlain opened the floor for discussion from the Board members.

Commissioner Sides described the situation as unique and said the issues were of no fault to the adjoining property owner. Commissioner Sides said when Mr.

Morgan had purchased the property, he was not aware of the developing situation and that he had endured some intolerable problems.

Commissioner Sides said he had seen the equipment in operation and that he did not believe the Rowan County Noise Ordinance had been designed to address this type of situation. Commissioner Sides said if it had been known this type of situation might arise, the noise decibels might have been reduced in ordinance.

Commissioner Sides reported the State had said the odors from the equipment did not exceed state standards; however, he said employees of DENR, the consultant, the property owner and Mr. Jarrett (involved in the clean up efforts) had all mentioned they would not want the unit next to their homes. Commissioner Sides said knowing the unit could extract those odors levels from the ground confirmed there was a problem. Commissioner Sides added that he had been disturbed by comments that if DENR was required to make any changes, there was the threat of DENR automatically operating the unit 24 hours per day, 7 days per week with no break for the property owner.

Commissioner Sides said the Board had received a copy of the report from the consultant, HS&E, which indicated several mitigations that could be made to the unit/property. Commissioner Sides said he could not vote to approve the conditional use permit without several conditions being placed on the unit and he discussed the conditions as follows:

1. The exhaust pipe in the shape of a "t" forces fumes to go towards the adjoining property owner. Commissioner Sides suggested the possibility of extending the exhaust pipe 20' higher into the air and emitting the odors straight up as opposed to the "t" shape.
2. Commissioner Sides felt that if fencing around the unit was fully insulated, it would probably mitigate some of the sound. Also, if the existing berm was made higher and/or longer, it might aid in noise reduction.
3. Approval of the permit should state the hours of operation. Commissioner Sides said the issue could come back to the Board once it had been determined that sound and odor was no longer a problem to the property owner.

Commissioner Mitchell said he had no problem with an option for an 8' high berm and additional insulation on the fence. Commissioner Mitchell questioned the piping for the exhaust and said he would like to see a change that would mitigate the smell. Commissioner Mitchell referred to Attachment A of the Staff Report and pointed out that piping of the exhaust was not an option. Commissioner Mitchell said the cost for the piping was listed at \$10,000 to \$12,000 and he asked Mr. Stewart to explain. Mr. Stewart said when Attachment A was prepared it was unknown if the change to the system would work. Mr. Stewart said the change would have to be reviewed by different individuals to determine if it would jeopardize how the system operated. Mr. Stewart said he was uncertain why a value was listed when it was unknown what would be required.

Commissioner Sides said the consultant had discussed placing the piping much farther away, thus the reason for the high cost. Commissioner Sides said the biggest problem was back pressure on the system and his option was to put a fan on the pipe to draw the air and avoid back pressure.

Mr. Stewart said he did not have a response from DENR as to how extending the pipe into the air would work.

Commissioner Barber said when he had talked with Dan Graham of DENR, Mr. Graham kept pushing back on the fact that if the Commissioners asked for additional conditions, there were no guarantees that HS&E could be reimbursed back from DENR. Commissioner Barber said for him to have spent one hour at the site was more than enough time for him to determine that the modifications to the remediation trailer in whatever form approved, was reasonable and necessary. Commissioner Barber said the property owner next door was realizing many problems that needed to be resolved.

Commissioner Sides said in reviewing and approving the application, there were requirements placed on the Board. Commissioner Sides said one requirement was that the proposed use would not endanger public health, safety and welfare. Commissioner Sides said he believed the odors from the unit were a danger to the public health, safety and welfare, and certainly to the family living next door. Commissioner Sides said the other requirement was that the proposed use would not have a substantial negative impact on the adjoining properties. Commissioner Sides said the property owner had stated he could not sell his property and get the value that is placed on it by the Tax Administrator's Office. Commissioner Sides said the unit could possibly be in place for another ten (10) years and was therefore causing a negative impact on the property.

Commissioner Sides said he believed with the above factors involved, the Board should consider placing minor and low cost restrictions on the applicant.

Commissioner Mitchell said he felt the three (3) options presented were reasonable in that they did not require further action once they were completed. Commissioner Mitchell said he hoped the changes would provide Mr. Morgan with some relief.

In response to a query from Commissioner Hall regarding the piping for the exhaust, Mr. Stewart said it was still unknown if the changes to the exhaust would make a difference. Mr. Stewart said it might be beneficial for the Board to provide leeway that if the piping could not be re-engineered to work, the issue could come back to the Board and the condition could be removed.

Chairman Chamberlain said the Board could set the conditions, which would go back to DENR for consideration. Chairman Chamberlain highlighted the proposed conditions for the Board's consideration as follows:

1. Extend the pipe 20' straight up with a flapper, a fan, and no tee;
2. Insulate the inside of the fence to reduce sound
3. Extend the berm and curve it 12 to 15 feet

Commissioner Sides said he would like for the Board to impose a requirement to leave the hours of operation as they currently are until it is proven that the changes drastically reduce the noise and the odor.

County Attorney Jay Dees reminded the Board that he had previously been involved with an associated issue and a community's fight against an asphalt company. Mr. Dees said what had ultimately worked to modify the odors in that situation were the carbon filters.

Chairman Chamberlain suggested the Board add carbon filters as one of the conditions and the Board members were in agreement.

Chairman Chamberlain repeated the proposed conditions again as follows:

1. Extend the pipe 20' straight up with a flapper and a fan, and no tee;
2. Insulate the inside of the fence to reduce sound
3. Extend the berm and curve it 12 to 15 feet
4. Install Carbon Filters
5. The Commissioners will set the operating hours

Commissioner Sides moved to approve TEMP 01-08 with the above-conditions as stated by Chairman Chamberlain. The motion was seconded by Commissioner Hall and carried unanimously.

## **5. CONSIDER APPROVAL OF RECOMMENDATION TO AWARD BID FOR RDH WATERLINE PROJECT**

County Manager Gary Page reported that formal bids for the RDH Tire and Retreat Company waterline extension were opened on November 6, 2008. Mr. Page said the most responsive bidder for the project was Ronny Turner Construction Company with a bid of \$293,042.

Other bids received were from:

- Propst Construction Company \$311,003.40
- Foothills Water and Sewer, Inc. \$341,835.00
- R.H. Price, Inc. \$369,696.50

Commissioner Sides said the project had been estimated at approximately \$700,000 and once the final cost was determined, the County would only request the North Carolina Rural Center Economic Infrastructure Incentive funds and the Small Cities Community Development Block Grant funds based on the total actual cost.

Commissioner Sides moved, Chairman Chamberlain seconded and the vote to approve the low bid from Ronny Turner Construction Company in the amount of \$293,042.00 passed unanimously.

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

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

- Parks – To revise budgeted revenues and expenditures in the Rural Operating Assistance Program (ROAP) to match recently released State funding amounts - \$48,164
- Social Services – Additional Crisis Intervention funds were released from the federal government due to the prediction of a harsh winter and the economic struggles of the citizens - \$200,209

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

## **7. ADJOURNMENT**

There being no further business to come before the Board, Commissioner Sides moved to adjourn at 7:42 pm. The motion was seconded by Commissioner Barber and passed unanimously.

Respectfully Submitted,

Carolyn Athey  
Clerk to the Board