

**MINUTES OF THE MEETING OF THE
ROWAN COUNTY BOARD OF COMMISSIONERS
May 18, 2009 – 7:00 PM
J. NEWTON COHEN, SR. ROOM
J. NEWTON COHEN, SR. ROWAN COUNTY ADMINISTRATION BUILDING**

Present: Carl Ford, Chairman
Jon Barber, Vice-Chairman
Raymond Coltrain, Member
Tina Hall, Member
Chad Mitchell, Member

County Manager Gary Page, Clerk to the Board Carolyn Athey, County Attorney Jay Dees and Finance Director Leslie Heidrick were present.

Chairman Ford convened the meeting at 7:00 pm.

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

CONSIDER APPROVAL OF THE MINUTES

Commissioner Barber moved approval of the minutes of the May 4, 2009 Commission Meeting. The motion was seconded by Commissioner Coltrain and passed unanimously.

CONSIDER ADDITIONS TO THE AGENDA

- Commissioner Hall moved to add a discussion whereby the Board would authorize the Clerk to the Board to advertise for the upcoming appointment to the ABC Board in July. The motion was seconded by Commissioner Coltrain and passed unanimously.

Chairman Ford added the discussion as agenda item #10a.

- Commissioner Coltrain mentioned the county-owned property located at 110 West Innes Street and said he had talked with people who had expressed an interest in purchasing the property. Commissioner Coltrain moved to add a discussion regarding the property, in order to declare the

property as surplus, or to assign a committee to decide what to do with the building. The motion was seconded by Commissioner Barber.

Commissioner Mitchell recalled that the property had been declared as surplus at the regular meeting of the Board on May 4, 2009 and that the County could already accept offers for the property.

Commissioner Coltrain withdrew the motion.

CONSIDER DELETIONS FROM THE AGENDA

Commissioner Hall moved to delete agenda item #10 (Presentation of Financial Update from ABC Board) until additional information that had been requested was received.

Commissioner Hall went on to explain that a request had been made to the ABC Board the previous week for additional information regarding salaries, bonuses, pay increases, credit cards issued to ABC staff/board members, as well as copies of credit card statements. Commissioner Hall said to date, the information had not been delivered. Commissioner Hall said ABC General Manager Terry Osborne had said he must get ABC Board approval to release the information, and based on the fact that only one Commissioner had asked for the information, the ABC Board did not feel obligated to respond. Commissioner Hall read an email from County Attorney Jay Dees, which addressed the request to the ABC Board as follows:

1. Rowan County ABC is a public body subject to open meetings laws and public records laws.
2. The custodian of ABC records is the Director of the ABC, not the board.
3. Any "person" may request such public records.
4. Refusal to provide the records by the board raises other questions.
5. Where custodian refuses to provide the requested records, the requesting party may file in Rowan County superior court for an order directing disclosure of the records and would subject the custodian to attorneys' fees of the requesting party as provided by statute.
6. NC Records Retention Schedule is as provided by the Department of Cultural Resources/Archives and may be found online via NC General Assembly website.

Commissioner Hall concluded the explanation for her motion by saying she would like to delay the presentation for two (2) weeks to June 1, 2009 in order to provide Mr. Osborne with additional time to respond to the request.

The motion was seconded by Chairman Ford.

Commissioner Mitchell said in the last meeting, the Commissioners had asked for a presentation based on the operations of ABC to determine if an efficiency study could be undertaken in order to maximize profits to the County. Commissioner Mitchell said he would not argue that the Commissioners were entitled to the requested information; however, he asked if the lack of the information would affect the presentation to be received and whether the Commissioners could continue discussions with the ABC Board concerning the profit distribution being given to the County.

Commissioner Hall said it was difficult to understand the lack of proper distribution if the County did not understand the financial details. Commissioner Hall said salaries and credit cards were a big part of ABC operations and she felt the County had the right to see the information. Commissioner Hall said the ABC Board had almost had one (1) week to comply with the request. Commissioner Hall compared the issue to the May 4, 2009 meeting where the Commissioners had delayed discussion on another topic due to the lack of materials and time to review information. Commissioner Hall stressed that for an issue as important as the ABC Board, the Commissioners should have the documentation.

Chairman Ford agreed with Commissioner Hall and said the documentation could affect the Commissioners' discussion and could also affect his vote pertaining to requesting a study by an efficiency committee.

Upon being put to a vote, the motion on the floor passed unanimously. Commissioners Coltrain and Barber were silent and therefore recorded as an affirmative vote.

Chairman Ford said the item was moved to the June 1, 2009 agenda.

CONSIDER APPROVAL OF THE AGENDA

Commissioner Barber moved, Commissioner Hall seconded and the vote to approve the minutes passed unanimously.

1. CONSIDER APPROVAL OF CONSENT AGENDA

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

The Consent Agenda consisted of the following:

- A. Approval of Request from NCDOT to Add Sagewood Lane to the State Secondary Road System for Maintenance
- B. Approval of Resolution on the Spending of Federal Economic Renewal Grants

**2009 Resolution on the Spending of
Federal Economic Renewal Grants to Rowan County**

WHEREAS, the economic downturn is having a critical impact on everyday Americans who are struggling to maintain or find jobs in an increasingly difficult environment; and

WHEREAS, those same Americans are the taxpayers that provide the revenue needed to operate essential government services; and

WHEREAS, Congress approved and President Obama signed into law a taxpayer-sponsored economic recovery package that will provide billions of dollars to help economically devastated cities and states immediately provide jobs to millions of out-of-work Americans through considerable infrastructure rebuilding, green energy projects and other projects that will require manufactured components; and

WHEREAS, our taxpayer dollars should be spent to maximize the creation of American jobs and restoring the economic vitality of our communities; and

WHEREAS, any domestically produced products that are purchased with economic recovery plan monies will immediately help struggling American families and will help stabilize our greater economy; and

WHEREAS, any economic recovery plan spending should – to every extent possible – include a commitment from Rowan County to buy materials, goods and services for projects from companies that are produced within the United States, thus employing the very workers that pay the taxes for the economic recovery plan spending in the first place; and

NOW, THEREFORE, BE IT RESOLVED, the Rowan County Board of Commissioners will work to maximize the creation of American jobs and restoring economic growth and opportunity by spending economic recovery plan funds on products and services that both create jobs and help keep Americans employed; and

BE IT FURTHER RESOLVED THAT, we commit to purchasing only products and services that are made or performed in the United States of America whenever and wherever possible with any economic recovery monies provided to Rowan County by the American taxpayers; and

BE IT FURTHER RESOLVED THAT, the Rowan County Board of Commissioners, we commit to publish any requests to waive these procurement priorities so as to give American workers and producers the opportunity to identify and provide the American products and services that will maximize the success of our nation's economic recovery program.

C. Approval of Resolution in Opposition to Senate Bill 1026 and House Bill 887, Also Known a Local Government Tort Claims Act, and House Bill 1476

**Resolution in Opposition to Senate Bill 1026 and House Bill 887,
Also Known as Local Government Tort Claims Act, and House Bill 1476**

WHEREAS, Senate Bill 1026 and House Bill 887 waive local government immunity and broaden the definition of proprietary functions for which local governments can be held liable; and

WHEREAS, under current law, counties can choose to waive their governmental immunity through the purchase of liability insurance; and

WHEREAS, Senate Bill 1026 and House Bill 887 eliminate the choice and prohibit administrative resolution of any claims greater than \$25,000 unless reviewed and approved by the court; and

WHEREAS, Senate Bill 1026 and House Bill 887 establish a cap of \$1 million per person, per occurrence for awards, but exempt from that limitation damages and claims that arise out of the exercise of proprietary functions. Senate Bill 1026 redefines proprietary functions to include functions that are currently not considered proprietary; and

WHEREAS, House Bill 1476, would defeat governmental immunity by creating causes of action against local governments under the North Carolina and United States Constitutions where none currently exist with no cap on the damages recoverable and no limitation on the type of function giving rise to the cause of action; and

WHEREAS, the effect of Senate Bill 1026, House Bill 887 and House Bill 1476 would be to increase the number of cases that will go to trial, result in fewer cases being resolved through local administrative processes, and would increase personnel costs, defense costs, and indemnity costs (*i.e.*, amounts paid towards settlements and judgments) for counties.

NOW, THEREFORE, BE IT RESOLVED, that the Rowan County Board of Commissioners opposes Senate Bill 1026, House Bill 887, and House Bill 1476 and encourages the North Carolina General Assembly to oppose their adoption.

D. Set Public Hearing for Z 02-09 for June 1, 2009

E. Set Quasi-Judicial Hearing for PCUR 01-09 for June 1, 2009

2. PUBLIC COMMENT PERIOD

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

- Mary Lowder said she had been born and raised in Rowan County and she felt Rowan was one of the most beautiful counties in the state. Ms. Lowder spoke in support of agenda item #11 (Consider Request from Mount Ulla Historic Preservation Society to Extend Millbridge Scenic Byway).
- Larry Wright, a Rowan County resident, reported that approximately 70 Rowan residents attended a rally against forced annexation on May 6, 2009 in Raleigh. Mr. Wright said two (2) Commissioners attended the rally, as well as two (2) former Commissioners. Mr. Wright provided a website address and encouraged citizens to contact their legislators regarding their stance on forced annexation. Mr. Wright, who is also a Planning Board member, discussed agenda item #8 (Consider Staff Recommendation Regarding Carolina Thread Trail). Mr. Wright said there were additional issues that should be considered, including maintenance of the trails, parking and security. Mr. Wright expressed hope that the Commissioners would follow the recommendations of the Planning Board.
- Jim Sides, a former County Commissioner, recalled that in 2004 and 2005 he had requested information from the ABC Board similar to what the Commissioners were currently seeking. Mr. Sides said he had questioned the fact that ABC operations were a \$7 million business and yet there were no profits. Mr. Sides said he did receive “sketchy” information after a

number of requests regarding employee salaries, benefits, etc. Mr. Sides read from a 2005 Salisbury Post article, where the ABC General Manager had stated Rowan County had “one of the best profit margins among the 100 other counties with an ABC system.” Rowan was ranked in the top 15 counties in sales and profits. Mr. Sides said figures indicated a “dismal” story regarding the profits the County should be receiving.

- Gus Andrews, former County Commissioner, and current member of the ABC Board, said the ABC Board could have provided information that the Commissioners were looking for and he felt the Commissioners’ decision to delete the ABC presentation from the agenda was questionable. Mr. Andrews said the issue of an efficiency study for ABC operations had been raised; however, the ABC Board did not feel there was a need to bring in an outside group. Mr. Andrews said the Commissioners had publicly requested for the ABC Board to provide information regarding ABC operations to help determine whether an efficiency study should be requested. Mr. Andrews said the ABC Board had been prepared to provide information regarding ABC responsibilities, etc. and why the ABC Board felt profits had been down, which was the sole emphasis of the request from the Commissioners. Mr. Andrews said the ABC Board had been “inundated” last week with requests for “factual” information. Mr. Andrews said the factual information was not a secret and could be provided. (At this point, Chairman Ford reminded Mr. Andrews that he had exceeded the time limit for the Public Comment Period and he asked Mr. Andrews to wrap up his comments). Mr. Andrews said the Commissioners had voted not to hear the ABC Board’s presentation due to waiting to receive “factual” information. Mr. Andrews said the ABC Board was required by law to provide certain public records. Mr. Andrews continued to express his disappointment with the Commissioners’ action. Chairman Ford asked Mr. Andrews to stop as he had exceeded the time limit twice. Chairman Ford said the ABC Board would be able to present the information in two (2) weeks. Mr. Andrews responded, “We may not be here in two (2) weeks”. Mr. Andrews began to make additional comments and Chairman Ford gavelled Mr. Andrews to end the discussion.

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

3. PUBLIC HEARING FOR PROPOSED ROAD NAME OF HIGHLAND HILLS TRAIL

Planning Technician Fredda Greer reported that GIS personnel had noticed the road servicing a small subdivision off Old Mocksville Road was named Highland Trail on maps, but the road was not found in the County’s Master Street Addressing Guide. Staff investigated and found the subdivision was recorded prior to subdivision regulations, but the road was never picked up in the system. Due to another “Highland” existing, a different road name must be selected for

use in this subdivision. Property owners were notified of the situation and complied with a unanimous petition for the name of Highland Hill Trail. Staff recommended approval of the name.

Commissioner Mitchell asked where the current Highland Road was located in correlation to the road in question and Ms. Greer said it was located in the Landis community.

Chairman Ford opened the public hearing to receive citizen input regarding the proposed road name of Highland Hills Trail. The following citizens came forward:

- Judy Sides said she wanted the road to remain Highland Trail. Ms. Sides said she had previously called to have a road sign installed but it was never done. Ms. Sides recalled an emergency situation when an ambulance was called for her granddaughter but there was no road sign to guide the emergency personnel. Ms. Sides said she preferred for the road name to remain Highland Trail.

Commissioner Mitchell asked Ms. Sides if she owned four lots and how many structures were addressed on those lots. Ms. Sides responded there was one (1) house and a beauty shop that was operated out of the home. Ms. Sides said she had been the only house on the road for approximately twenty (20) years and two (2) additional structures had been built in the past ten (10) years.

- Joyce Salvatoriello provided a humorous example as to why road signs were needed. Ms. Salvatoriello said a street sign was needed for mail and emergency services purposes.

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

Commissioner Mitchell asked Ms. Greer how confusing would it be to have Highland Trail along with a road named Highland Avenue. Ms. Greer said the question would need to be addressed by emergency personnel, as they strongly recommended moving away from duplicating road names. Ms. Greer pointed out the people who had spoken during the public hearing were using an Old Mocksville Road address and had signed the petition to rename the road Highland Hills Trail. Ms. Greer said she talked with Mr. Sides on the telephone and he had been agreeable to the change. Ms. Greer said she was unaware there would be any controversy over the name change until the public hearing.

Commissioner Mitchell said the number one choice was Highland Trail and the number two choice was Highland Hills Trail. Ms. Greer said the number one choice was not accepted by the 911 system.

Commissioner Hall asked if it would be a Salisbury address and what the confusion would be to have Highland Avenue in Landis. Ms. Greer said the Telecommunications Department had requested not have two (2) roads with the same name and that the Ordinance also stated there should not be a duplication of road names. Ms. Greer said the thoroughfare abbreviation does not make the names different.

In response to a query from Commissioner Hall, Ms. Greer said the duplication of road names existed; however Staff was trying to prevent future duplications.

Commissioner Hall said based on what the citizens were saying the road name change would be an inconvenience and Ms. Greer said those who had spoken used addresses listed as Old Mocksville Road.

Commissioner Coltrain asked why the citizens had signed the petition and then changed their minds. One of the citizens spoke from the audience saying they had no choice but to sign the petition as they were told the road name Highland Trail was unavailable.

Commissioner Mitchell moved to delay the approval of the road name change until the Board could speak with Emergency Services. Commissioners Barber and Hall seconded and the motion passed unanimously.

4. PUBLIC HEARING FOR PROPOSED BUDGET AMENDMENT TO CDBG-ED PROJECT FOR RDH TIRE

Grants Administrator Skip Greene discussed the proposed budget amendment for the Small Cities Community Development Block Grant – Economic Development (CDBG-ED) project to construct water improvements that serve RDH Properties. The proposed budget amendment was to move \$21,467 CDBG-ED grant funds from the “water” budget to the “administration” budget. The budget amendment would also reduce the total amount of the CDBG-ED grant from \$384,000 to \$214,672 due to the construction under run.

Chairman Ford opened the public hearing to receive citizen input regarding the proposed budget amendment for the CDBG-ED Project for RDH Tire.

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

Commissioner Barber moved approval of the CDBG project for RDH Tire. The motion was seconded by Commissioner Hall and passed unanimously.

Chairman Ford called for a short break at 7:40 pm. Chairman Ford referred to Public Comment Period and stated that he did not like gaveling someone; however, he was obligated to maintain the time limit for all citizens.

Chairman Ford reconvened the meeting at 7:45 pm.

5. PUBLIC HEARING FOR 2009 SOLID WASTE MANAGEMENT PLAN

Lori Swaim of the Rowan County Environmental Management Department presented the 3-year update for the Solid Waste Management Plan, which she said was state-mandated.

Ms. Swaim highlighted the plan and also discussed financial incentives for recycling. Ms. Swaim commented that education was the main component in getting people to recycle.

In response to a query from Chairman Ford, Ms. Swaim said Davie County sent its recyclables to a private entity.

Commissioner Mitchell asked about the dates listed on the report and Ms. Swaim explained the plan projection must be for ten (10) years and must be updated every three (3) years.

Commissioner Coltrain made several inquiries and Ms. Swaim explained the rules on yard waste and the junk mail terminator process. Ms. Swaim also said approximately 75% of the businesses in Rowan County participated in the recycling program.

Commissioner Coltrain said he served as the liaison to Centralina Council of Governments and there had been discussions on the development of regional recycling centers. Commissioner Coltrain asked if Ms. Swaim thought it would be beneficial for the County to participate in such a program. Ms. Swaim responded she would be interested in seeing a study.

Commissioner Coltrain thanked Ms. Swaim for her efforts and acknowledged that recycling was expensive but required.

Chairman Ford opened the public hearing to entertain citizen input regarding adoption of the plan.

With no citizens wishing to address the Board, Chairman Ford closed the public hearing.

Commissioner Mitchell moved, Commissioner Barber seconded and the vote to approve the solid waste 3-year update and the resolution submitted via email passed unanimously.

6. PUBLIC HEARING FOR FINANCING OF ROWAN-CABARRUS COMMUNITY COLLEGE CLASSROOM BUILDING

Finance Director Leslie Heidrick said for the past several months, the Board had been discussing the financing for the classroom building at the north campus of

Rowan-Cabarrus Community College. Ms. Heidrick said the projected amount to be financed was \$3,400,000 and in order to comply with state regulations, a public hearing must be held to allow for citizen input on the issue.

Chairman Ford opened the public hearing to receive citizen input regarding the financing for the Rowan-Cabarrus Community College classroom building.

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

Commissioner Barber moved, Commissioner Coltrain seconded and the vote for approval of the financing of the Rowan-Cabarrus Community College classroom building passed unanimously.

7. STAFF REPORT REGARDING CONDEMNATION OF DWELLING AT 310 CORRIHER GRANGE ROAD

Ed Muire, Planning and Development Director, stated in May 2007 Staff investigated a complaint concerning a burned home located at 310 Corriher Grange Rd and mailed a Notice To Condemn letter on May 16, 2007. Mr. Muire said several conversations took place with the owner (Dean Goodnight) concerning the home. Mr. Muire said at one point, Mr. Goodnight indicated a church was to donate its time and effort to clean the site, which ultimately did not happen. Mr. Muire said the lack of action resulted in the letter sent on January 14, 2008; however, due to departmental budget constraints, the violation had been placed on hold in the hopes that it would take care of itself.

Mr. Muire said on February 16, 2009 an Administrative Hearing took place and the property owner was given 60 days to take corrective action and to date, Staff had received no response.

Mr. Muire asked the Board to schedule a public hearing for June 1, 2009 to consider condemnation of the dwelling at 310 Corriher Grange Rd. Mr. Muire said Staff would post a notice on the site and notify the property owner.

Commissioner Mitchell inquired as to the last contact with the property owner and Mr. Muire responded he was not sure.

Commissioner Mitchell asked if Staff would ensure contact with the owner and Mr. Muire replied yes.

Commissioner Coltrain moved to set the hearing as recommended by Staff. Commissioner Barber seconded and the motion passed unanimously.

8. CONSIDER STAFF RECOMMENDATION REGARDING CAROLINA THREAD TRAIL RESOLUTION

Planning and Development Director Ed Muire discussed the request for the Carolina Thread Trail (Trail) Resolution. Mr. Muire said the Planning Board subcommittee had reviewed the information, including a DVD, and voted not to support the Resolution. Mr. Muire said the Planning Board unanimously agreed on April 27, 2009 to reject support of the Trail resolution. Mr. Muire said Section 4.7 of the Land Use Plan (LUP) stated “No public trails should be proposed across private lands, or farmlands, unless the property owner voluntarily consents to them”.

Chairman Ford said he had seen other presentations about the Trail and had heard recommendations for the Trail to be twelve feet wide and twenty feet on either side to be maintained or cleared. Chairman Ford said questions had been raised regarding law enforcement, lighting, trash, etc. Chairman Ford said the LUP did not allow greenways without property owners consent.

Chairman Ford said the Trail was a good idea; however, he said he was concerned by information contained in the DVD. Chairman Ford said he had viewed the DVD several times and Rowan County was listed as a participant at the end of the DVD. Chairman Ford said the DVD was made in 2007 and he could not find where Rowan County had ever voted to be a participant in the Trail.

Chairman Ford said the projected Trail ran through the southern end of the County and would run through the city limits of Kannapolis, China Grove and Landis. Chairman Ford said he thought the cities should have input on the resolution and on the Trail as a whole before the Commissioners voted. Chairman Ford said another problem with the Trail was the easement, which ran along Grants Creek for the sewer lines through China Grove and Landis. The sewer lines were controlled by the City of Salisbury. Chairman Ford said there were a lot of entities that needed to be dealt with on the issue. Chairman Ford said it was an overall good concept, however it was a “little scary”. Chairman Ford noted the Planning Board unanimously rejected the resolution.

Commissioner Coltrain said he had the opportunity to meet with Chairman Ford and Ann Browning to discuss the Trail. Commissioner Coltrain introduced Ms. Browning as the Director of the Carolina Thread Trail project and called Ms. Browning forward to address the Board.

Commissioner Coltrain said a group of volunteers were using private money to enable the Trail. Ms. Browning added that the initiative for the Trail was to assist communities that were interested in participating in the network of trails throughout the region. Ms. Browning said Carolina Thread Trail provided technical resources and private funding, which was given out as grants. Ms. Browning said coordination assistance was also provided to help communities

learn from each other and share best practices. Ms. Browning said communities within a 15-county region were invited to participate. Ms. Browning said a core principal of the Trail was community self-determination, which included whether to participate, where the trail would be located and the nature of the trail.

Commissioner Coltrain asked if the citizens would make the decisions regarding participation and trail specifications. Ms. Browning said the citizens would make the decisions. Ms. Browning said a concept map was available and illustrated potential opportunities. Ms. Browning said the concept map would be revised over time as communities engaged in the process. Ms. Browning said the Trail did not support eminent domain as means for developing the Trail.

Commissioner Coltrain asked about maintenance and upkeep and Ms. Browning responded that sometimes the local government would provide the upkeep but there were also private models where citizens volunteered to provide the maintenance and upkeep.

Commissioner Coltrain asked County Manager Gary Page to share his experience with other counties in regards to trails.

Mr. Page responded in his last community, there was an immediate commitment on the front end from the Board to participate. Mr. Page said he had worked with the County Attorney to talk to property owners to see if they would provide the easement. Mr. Page said if the property owners had been unwilling to provide the easement, a different route was chosen. Mr. Page said the effort was never pursued with the idea that condemnation would be used. Mr. Page said five (5) miles of trails were developed. Mr. Page said once the easements were granted, the County would apply for grants to help build the trails. Mr. Page said after the trails were completed they had to be maintained and patrolled by law enforcement. Mr. Page said the decision was a commitment.

Commissioner Coltrain asked if overall the experience was positive for the community and Mr. Page said the project had encouraged people to get out and enjoy the trails. Mr. Page said the community had to weigh the investment.

Commissioner Coltrain said the name of Carolina Thread Trail was in honor of all the thousands of people who worked in the textile industry in an effort to show an appreciation for their lives. Ms. Browning said this was a correct statement and the idea was "weaving communities together".

Commissioner Coltrain said Ms. Browning had provided a list of 119 civic and public organizations that had passed resolutions of support for helping the communities. Commissioner Coltrain said he could not see how the County could discourage a group of volunteers who want to use their time and money to help people, "if those people want the help". Commissioner Coltrain said the

Trail was a good idea in helping people enhance the quality of their lives and he thanked Ms. Browning for the efforts.

Chairman Ford said the resolution stated private funding was available for planning and construction, but said he was leery of future funding.

Commissioner Mitchell noted the resolution stated there was private funding that would leverage public funding, which indicated the Board would have to eventually provide funding.

Commissioner Hall said she appreciated Commissioner Coltrain's remarks and the presentation but she felt it was tough to consider a request where the County might have to possibly fund the project at a later time and during tough economic conditions. Commissioner Hall said the Board should concentrate on providing essential services for the citizens. Commissioner Hall said she attended the Planning Board meeting the night the issue was discussed and it was unanimous to deny the request.

Chairman Ford said the Trail was a good idea and perhaps could be incorporated into the existing parks and trails at a later time.

Commissioner Coltrain said he thought the Board was misreading the request. Commissioner Coltrain said the Board would only be saying, "Yes, we think this is a good idea and we will help you when we can, if we can".

Commissioner Barber read the last paragraph in the resolution which stated "Now, therefore, be it resolved that Rowan County supports the Carolina Thread Trail and is committed in concept to working with neighboring communities and with the Carolina Thread Trail to plan, design and build a system of trails that will connect our communities, people and special regional points of interest for years to come". Commissioner Barber said he was unsure what the resolution was committing the County to other than the concept.

Commissioner Barber asked if agreeing to the concept meant future Boards would also be committed. County Attorney Jay Dees said if the question was whether the resolution committed the Board to spend money, the answer was no. Mr. Dees said, in concept, the resolution did call for the Board to possibly have to commit future funds.

Commissioner Barber said he was concerned with eminent domain and asked if passing the resolution would set a precedent for any county, city or state governing body to take property through eminent domain. Mr. Dees said there had been no precedent set on the matter and the Board had heard tonight that the intent was community specific.

Commissioner Barber asked if the Board wanted to discuss the resolution with its municipalities before considering approval. Commissioner Barber asked if there were pressing deadlines for approval of the resolution, such as state or federal grants. Ms. Browning said the resolution could be done at the community's timing. Ms. Browning said planning grants and \$330,000 in grants had been reserved for communities who had adopted the resolution and chosen to work with municipalities to develop a master plan. Ms. Browning said monies were available to fund 90% of those costs and in order to be equitable in distributing the funds, all 15 counties had funds reserved for the planning costs.

Chairman Ford inquired as to why Rowan County was listed as a participant for two (2) years before any Board had voted on the issue. Ms. Browning said the concept was regional and the footprint came from communities that were affiliated with the Foundation for the Carolinas. Ms. Browning said Rowan County was identified as an area that could be woven in to the concept and it was not meant to be presumptive but more as an opportunity to participate.

Commissioner Hall read from the LUP, "No public trail should be proposed across private lands, or farmlands, unless the property owner voluntarily consents to them". Commissioner Hall said the resolution was a proposal which went against the LUP. Commissioner Hall said in order to protect the citizens, she would like to propose that the Board direct Planning Staff to bring the Planning Board an ordinance to protect Rowan land owners from forced access to their property for development of public trails through eminent domain. Commissioner Hall said she would like the Board to consider the ordinance first as it might lay the ground work for a later request.

Commissioner Hall moved to direct Planning Staff to bring to the Planning Board an ordinance to protect Rowan land owners from forced access to their property for development of public trails through eminent domain. Commissioner Mitchell seconded and the motion passed unanimously.

Commissioner Coltrain moved to "support these people". Commissioner Coltrain said the Board had heard directly from Ms. Browning that eminent domain was not a factor and that future Boards would not be obligated. Commissioner Coltrain said the Board would be saying they appreciated the efforts to offer assistance to people who want it to enhance the quality of life in their community. Commissioner Coltrain said the Board would be joining the other 119 communities to support individuals who worked in the textile industry and possibly create areas where the citizens can enjoy walking and riding bikes. Commissioner Coltrain said the citizens would address whatever issues came along. Commissioner Barber seconded the motion.

Commissioner Mitchell said his problem with the resolution, was that it would require staff time, which he was not willing to commit in the next budget year.

Commissioner Coltrain asked where Commissioner Mitchell saw in the resolution that staff time would be needed. Commissioner Mitchell said the resolution stated the Board would be committed in concept to working with neighboring communities and it would be staff working with those communities and calling on those along the proposed path for their permission.

Commissioner Coltrain said he was going to respectfully disagree with Commissioner Mitchell, as it was people working with people.

Upon being put to a vote, the motion failed 2-3 with Commissioners Hall, Ford and Mitchell dissenting.

9. AGRICULTURE AND FOOD SUPPLY

Through the use of a power point presentation, Commissioner Barber reviewed the information in the agenda packet regarding agriculture and food supply. Commissioner Barber said he had added one (1) source of documentation, which he had recently discovered from the North Carolina Association of County Commissioners (NCACC) website.

Commissioner Barber said, "There can be no healthy people without a healthy diet and there can be no healthy diet without healthy agriculture". Commissioner Barber recalled the April 20, 2009 Commission Meeting where the Board had heard from numerous citizens during the courtesy hearing regarding the Land Use Plan (LUP). Commissioner Barber said those citizens also spoke about the need to develop a balance between residential, business, and commercial growth.

Commissioner Barber said Rowan County relied heavily on its agriculture base as one of its top industries and that the County must do everything possible to preserve its farms for future generations.

Commissioner Barber recognized the Agricultural Advisory Board members, some of whom were present. Commissioner Barber said the Agricultural Advisory Board was made possible through North Carolina State Statute § 106-739. Commissioner Barber noted the County had an Agricultural Advisory Board, as well as a Cooperative Extension Advisory Council.

Commissioner Barber said the Board needed to become serious about agriculture and food supply in Rowan County. Commissioner Barber said the agenda packets included information provided by Robert Van Geons, Economic Development Commissioner Director, which listed the number of farming establishments in the County, the average employment, and wages, and total cash receipts. Commissioner Barber said agriculture was still a viable and stable business even through difficult economic times.

Commissioner Barber highlighted one of the charts in the agenda packet and discussed the different aspects of agriculture in Rowan County and how they could become a powerful economic engine.

Commissioner Barber noted there had been an article in the Salisbury Post that discussed the North Carolina Research Campus. Commissioner Barber said the “biotech economy” must be supported by local agriculture. Commissioner Barber said he had been working with Mr. Van Geons in an effort to gain Rowan County “a seat at the table” with the biotech research campus.

Commissioner Barber said the purpose of the discussion was to help the Board get serious about agriculture and food supply in Rowan County. Commissioner Barber recommended:

- A Commissioner serve as a liaison on the Agricultural Advisory Board
- Staff review the Ordinance, which is dated 1990, for compliance with the changes in GS §106-739 which was updated in 2005
- Staff compare Rowan County’s ordinance to other counties
- Gain a “seat at the table” at the Biotech Research Campus
- Sponsor a forum for farmers to share ideas with the Board
- Empower the Agriculture Advisory board to develop farm programs for consideration by the Board

Commissioner Coltrain thanked Commissioner Barber for the facts provided and his efforts in providing information. Commissioner Coltrain said he would be honored to serve as a liaison to serve on the Agriculture Advisory Board as well as work with the biotech campus.

Chairman Ford said he felt Commissioner Coltrain would probably be the most qualified.

Commissioner Barber asked if the Board had any problem with directing Staff to work with the Agriculture Advisory Board to review the ordinance.

Chairman Ford said he did not have a problem with using Staff as long as additional hours or staff would not be needed.

Commissioner Barber said the ordinance was only a couple of pages and he did not feel additional staff would be needed.

Commissioner Hall said she felt the County was on the way to gaining a seat at the Biotech Research Campus through the Rowan Cabarrus Community College building.

Commissioner Barber listed the Agricultural Advisory Board members again as Kim Starnes, Chairman and Dr. Ann Furr, Darrell Nichols, Karen Moore and Mark Hammill. Commissioner Barber listed the term ending dates for each member.

Commissioner Barber said he was impressed with the number of young people who spoken at the hearing for the LUP. Commissioner Barber said it had shown him there were opportunities for those individuals to get involved when the time was right.

10. PRESENTATION OF FINANCIAL UPDATE FROM ABC BOARD

Agenda item #10 was deleted from the agenda.

ADDITION

10a. ABC Board Appointment

Commissioner Hall noted there was a vacancy coming up on the ABC Board and she moved to authorize the Clerk to the Board to advertise for the appointment to the ABC Board. Chairman Ford seconded the motion.

Commissioner Mitchell said he would support the motion in the context that all the vacancies for the various boards were advertised together.

Upon being put to a vote the motion passed unanimously.

11. CONSIDER REQUEST FROM MOUNT ULLA HISTORIC PRESERVATION SOCIETY TO EXTEND MILLBRIDGE SCENIC BYWAY

Commissioner Hall said there were several citizens in the audience to support the request from the Mount Ulla Historic Preservation Society for an extension to the Millbridge Scenic Byway (Byway). Commissioner Hall said Byway was already in place and the request proposed a sizeable extension. Commissioner Hall said she had recently followed the route and she described it as the heart of West Rowan farming. Commissioner Hall said the Byway should be shared with Rowan citizens and tourists. Commissioner Hall said there were no stoplights and the drive took approximately 45 minutes. Commissioner Hall considered the Byway to be one of the County's best-kept secrets with great potential for tourism.

Commissioner Hall called Betsy Webster of the Mount Ulla Historic Preservation Society forward. Ms. Webster recognized the individuals who had helped to compile the information for the request. Ms. Webster stated that she was glad to hear the Board was looking at the agricultural component of Rowan County. Ms. Webster said she would answer any questions the Board might have.

Chairman Ford referred to page 2 of the information, which pertained to Tower Viewshed. Chairman Ford said by federal mandate, Rowan County was preparing to build up to three (3) towers in the next few years. Chairman Ford said he did not want the Byway to interfere with a tower that would be needed for fire and rescue operations. Chairman Ford said he wanted to ensure the Byway would "jive" with the County's recently adopted Land Use Plan (LUP) and said he did not feel that Staff had ample time to review the information.

Ms. Webster asked James Rollans to address Chairman Ford's concern regarding the tower issue. Mr. Rollans said the Byway would not be in conflict with any local jurisdiction. Mr. Rollans said the clause was added as a requirement of the application and was derived from the County ordinance. Mr. Rollans said the application required the information be shared with local organizations and local government. Mr. Rollans said he felt the Byway would be a tremendous benefit for tourism and he encouraged the Board to support the proposal to the North Carolina Department of Transportation (NCDOT).

Chairman Ford said a lot of people from western Rowan had come before the Board stating they did not want "anyone coming that way". Chairman Ford expressed his concern that the Byway would be listed on maps, therefore increasing traffic to the area.

Ms. Webster said members of the Mount Ulla Historic Preservation Society had talked with many people with only one person stating they did not want to live on a scenic byway. Mr. Rollans said he knocked on 140 doors spread over 37 miles; he reported there were four (4) people for every mile that supported the byway.

Rose LaCasse said the NC Scenic Byway guidelines stated the goal was to give "visitors and residents a chance to experience North Carolina history, geography and culture. The byways are carefully selected to portray the diverse beauty and culture of the Tarheel State and provide travelers with safe and interesting alternative travel routes." Ms. LaCasse said she had read the LUP and could not find any contradiction for byways. Ms. LaCasse said a portion of the LUP (Section 4.8) addressed future plans for agri-tourism and possible studies to address historic routes. Ms. LaCasse said she could not see any problems in regards to the LUP; however, she said Staff may recognize issues she was unaware of.

Ms. Webster said the Board was not being asked for money or services, but a letter of support for the extension of the current Millbridge Scenic Byway.

Chairman Ford asked if the Byway would hinder, in any way, putting up towers for emergency services.

Commissioner Coltrain said based on comments at the Board's Retreat, the communication tower would be located on Young's Mountain and should not interfere with the Byway.

Commissioner Mitchell said he did not have a problem with the scenic byway itself; however, he did have a problem with how the County could reconcile private property rights with the approval of the Byway. Commissioner Mitchell said the road, by the document's own admission, would limit what someone else could do with their property. Commissioner Mitchell said he understood that

most everyone in the area supported the request, but he questioned the citizens within a two (2) mile radius around the area. Commissioner Mitchell said if the Byway were in place, there would be some uses that could not occur within view of the road and he had a serious problem with this.

Commissioner Hall reminded the Board that a scenic byway was already in place and there had not been any circumstances where private property rights had been compromised. Commissioner Hall asked Ed Muire, Planning and Development Director, to confirm. Mr. Muire responded that no private property rights had been compromised as they related to zoning.

In response to a query from Commissioner Mitchell, Commissioner Hall said she hoped the current scenic byway had not affected the current property owners in a negative light. Commissioner Hall said the drive was an inexpensive activity that would be a great help to businesses such as Patterson Farms and the Lazy 5 Ranch. Commissioner Hall said she did not see the route as a negative request and she would not have put it on the agenda if she had thought it would compromise private property rights.

Commissioner Mitchell said if the Board had to put a tower in the area, and approval of the Byway extension prohibited the County from using a particular site, such as a farm where the additional income was needed to continue farming, the approval could in effect destroy the farmland the Board had been trying to protect.

Commissioner Hall asked the County Attorney to respond, saying that to her knowledge having a scenic byway would not prohibit in itself, someone from putting up a tower; however the County's ordinances could prohibit the tower location.

County Attorney Jay Dees responded that currently, as the Ordinance was written regarding the use that had been discussed during the meeting, it would limit the location of a tower that penetrated the scenic byway. Mr. Dees said, "That is a function of the language of our Ordinance, which is the distinction that you've drawn. The answer is, as written, yes it would have an impact".

Commissioner Hall said she understood that the extension would not supersede the County's Ordinance.

Commissioner Mitchell said, "Will this follow with the commensurate request to have the scenic byway prohibition of the viewshed of the scenic byway protections removed from our Ordinances"? Commissioner Mitchell said, "If we do that, I'll support the scenic byway".

Commissioner Hall asked for clarification of Commissioner Mitchell's comments.

Commissioner Mitchell said, "If we remove the protections of the viewshed for the scenic byway from our Ordinances, I'll support the extension of the scenic byway".

Chairman Ford concurred with Commissioner Mitchell.

Mr. Dees said he thought he understood Commissioner Mitchell to be saying he would support adoption of the scenic byway if the Board removed language from the Ordinance that restricted any development that impacted a scenic byway. Mr. Dees said if that was a correct understanding, it would require an ordinance change.

Commissioner Hall said she did not see the request as a problem and was not aware that the initial byway had caused problems with any County ordinance or private property owners. Commissioner Hall said she did not see adoption of the Byway superseding what was already in place. Commissioner Hall said if there was language in the Ordinance that protected a viewshed, she did not feel it was an issue the Board needed to address "tonight".

Commissioner Mitchell explained that the two were intertwined without being able to be separated. Commissioner Mitchell said, "If you extend the scenic byway and you are protecting the viewshed from the scenic byway, then you are by necessity, limiting any property owner from doing anything within view of the scenic byway".

Commissioner Mitchell asked if the extension of the scenic byway and the ordinance as it existed, impacted the current tower application before the Zoning Board of Adjustment.

Mr. Muire said there had been no application submitted so he could not answer the question at this time. Mr. Muire asked the Board to consider that there had been two instances where cell towers were built within the corridor of the scenic byway. Mr. Muire said he had drafted language in the Ordinance years ago, and the language "limit the impact," should not be confused with "eliminate the visual impacts". Mr. Muire said the County's 800 system was different as compared to cell towers; however, in terms of cellular coverage the licensed provider must fulfill their FCC requirements to provide coverage to certain areas. Mr. Muire said it would be tough to speculate on what the total impact would be on the extension of the scenic byway.

Chairman Ford said most cell towers were less than 200' and were not lit or painted. Chairman Ford said the tower the County was considering would be 350' or more for County communications. Chairman Ford said the proposed broadcast tower would be approximately 1000' or more.

Mr. Muire said the Board was treading on the issue as it related to the pending application of a particular use in that area. Mr. Muire said it might be appropriate for him or the County Attorney to look at the proposal and provide a broader opinion on what was being requested and how it might impact property owners outside of the Zoning Ordinance. Mr. Muire said the County could not assume where the towers would be located and could only discuss them in terms of policy, and how policy would be applied.

Chairman Ford said the rebanding was the reason the County would have to build the towers. Chairman Ford said he liked the idea of a scenic byway; however, his only problem was with the viewshed.

Commissioner Hall moved to accept the recommendation from the group to accept the extension of the scenic byway. Commissioner Barber seconded the motion.

Commissioner Barber said the route was in a beautiful area and he thought the extension would be an important part of the agri-tourism business in Rowan County.

Chairman Ford said he had no problem with the extension if the Board could eliminate the viewshed.

Commissioner Mitchell moved to amend the motion to add the instruction to Staff to begin the process to remove #3 Tower Viewshed off page 2 from Z 06-03 adopted text, and remove the references to protection of the viewshed under item C New Wireless Telecommunication Facilities on page CD 21:60 from Statute 21-60. Chairman Ford seconded the amendment.

Commissioner Hall asked if the Board would be voting on the original motion or the amendment. Commissioners Ford and Mitchell responded the vote would be for the amendment only.

Mr. Dees said the Board was getting dangerously close to a conflict for him. Mr. Dees said now that Chairman Ford had specifically raised the issue of a broadcast tower, he would need to defer the question to the Board's legal counsel, Anthony Fox.

Chairman Ford apologized for bringing up the tower issue; however, he said his main issue was with the County's communications towers, which would be approximately 350' for fire and police service.

Commissioner Coltrain asked if there would be any negative affect if the text were removed from the ordinance. Mr. Dees replied that specific question may implicate an opinion that relates to broadcast towers and he must defer the question to outside council.

Commissioner Coltrain said he lived in the area for 15 years during which time towers were built and there was never anyone in the community that spoke negatively about the towers.

Chairman Ford said when the County was ready to put up the tower and a site was chosen, he did not want to create a situation where neighbors could say no to a tower because “new broadcast tower locations should limit visual impact to the scenic byway”.

Commissioner Coltrain said one tower would not destroy the enjoyment of the route.

Upon being put to a vote, the amendment to the motion failed 2-3 with Commissioners Hall, Coltrain and Barber dissenting.

Upon being put to a vote the motion to accept the scenic byway passed 3-2 with Commissioners Mitchell and Ford dissenting.

12. CONSIDER APPROVAL OF BUDGET AMENDMENTS

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

- Health – To budget increase in revenue and cover salary and benefits for remainder of FY '09 for Child Service Coordination-Title XIX Fees - \$15,010
- Health – Received revised Smart Start Rowan funding allocations for FY 2008-09; including a \$5250 decrease in NAPSACC; a \$2957 decrease in Smart Start CCHC Grant.
- Sheriff’s Office – Recognize excess revenue and budget to State Fees-Concealed Weapons account - \$30,855
- Social Services – To realign expenditures to cover projected needs through the end of the fiscal year in several areas - \$144,329
- Social Services – To establish expenditures and revenues for monthly caseworker visits according to the funding authorization received from the state \$2,110

Commissioner Barber moved, Commissioner Coltrain seconded and the vote to approve the budget amendments passed unanimously.

13. CONSIDER APPROVAL OF RETAINING SPECIAL COUNSEL FOR TOWER-RELATED HEARINGS

County Attorney Jay Dees proposed that the Board retain Mr. David Poleka, of the Nexsen Pruet law firm to represent Staff during the Zoning Board of Adjustments hearings at an hourly rate \$220 and an hourly rate of \$250 for future conditional use permit hearings, if needed.

Mr. Dees said a conflict had been raised due to the merger of Mr. Poleka's firm and the firm of Sanford Holshouser in Raleigh. Mr. Dees said the Raleigh firm had previously represented Southern Company when the company acquired the Progress Energy plant in Rowan County. Mr. Dees said the representation was continuing. Mr. Dees said it was anticipated that Southern Company would request an investment incentive grant from the County.

Mr. Dees said Nexsen Pruet had provided a waiver of the potential conflict of interest and the Board would need to authorize the Chairman to execute the waiver letter.

Mr. Dees recommended approval of retaining Mr. Poleka and to authorize the Chairman to execute the waiver letter.

Commissioner Mitchell moved to retain Mr. Poleka's services and to authorize the Chairman to sign the conflict waiver. Commissioner Coltrain seconded and the motion passed unanimously.

14. COUNTY MANAGER'S MONTHLY ACTIVITY REPORT TO THE BOARD

County Manager Gary Page said he would be glad to answer any questions regarding the monthly activity report in the agenda packets.

Commissioner Hall thanked the County Manager and the Department Directors for submitting the information contained in the report.

Chairman Ford said he would like for the record to reflect that the County had saved over \$123,000 from the April 13, 2009 furlough day. Chairman Ford thanked every employee for helping bring the budget in order.

15. ADJOURNMENT

There being no further business to come before the Board, Commissioner Barber moved to adjourn at 9:44 pm. The motion was seconded by Commissioner Coltrain and passed unanimously.

Respectfully Submitted,

Carolyn Athey
Clerk to the Board