

**MINUTES OF THE MEETING OF THE  
ROWAN COUNTY BOARD OF COMMISSIONERS  
March 5, 2012 – 3:00 PM**

**J. NEWTON COHEN, SR. ROOM**

**J. NEWTON COHEN, SR. ROWAN COUNTY ADMINISTRATION BUILDING**  
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Present: Chad Mitchell, Chairman  
Carl Ford, Vice-Chairman  
Jon Barber, Member  
Raymond Coltrain, 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 Mitchell convened the meeting at 3:00 pm.

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

**CONSIDER APPROVAL OF THE MINUTES**

Commissioner Barber moved, Commissioner Coltrain seconded and the vote to approve the minutes of the February 20, 2012 Commission Meeting passed unanimously.

**CONSIDER ADDITIONS TO THE AGENDA**

Commissioner Ford moved to extend Public Comment Period based on the number of individuals signed up to speak. The motion was seconded by Commissioner Barber and passed unanimously.

**CONSIDER DELETIONS FROM THE AGENDA**

Chairman Mitchell stated that prior to the meeting Emergency Services Director, Frank Thomason, had requested additional time to answer questions the Board might still have regarding agenda item #6 (Second Consideration of FPO 01-11). Chairman Mitchell then made a motion to strike item #6 from the agenda. The motion was seconded by Commissioner Barber and passed unanimously.

## **CONSIDER APPROVAL OF THE AGENDA**

Commissioner Sides moved, Commissioner Barber seconded and the vote to approve the agenda passed unanimously.

### **1. PUBLIC COMMENT PERIOD**

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

- Larry Wright spoke in support of the Board continuing to open meetings with sectarian prayer
- Dorothy Earle spoke in support of the Board continuing to open meetings with sectarian prayer
- Karen Campbell encouraged the Board to keep government and religion separate
- Jim Spiceland said, "This country is not a Christian nation" but a country for all faiths. Mr. Spiceland asked the Board if the issue was about control and said he did not want a theocracy.
- Gail Lambert spoke in support of the Board continuing to open meetings with sectarian prayer
- Adrian Hendren spoke in support of the Board continuing to open meetings with sectarian prayer
- Matthew Jones spoke in support of the Board continuing to open meetings with sectarian prayer
- Linda Sechler spoke in support of the Board continuing to open meetings with sectarian prayer
- Phyllis Sides spoke in support of the Board continuing to open meetings with sectarian prayer
- John Melton spoke in support of the Board continuing to open meetings with sectarian prayer
- Pastor Rick Perry spoke in support of the Board continuing to open meetings with sectarian prayer
- Christopher Woody Winburn spoke in support of the Board continuing to open meetings with sectarian prayer
- Patsy Melton spoke in support of the Board continuing to open meetings with sectarian prayer
- Pete Prunkl spoke in opposition of the Board continuing to open meetings with sectarian prayer
- Christopher D. O'Gwn spoke in support of the Board continuing to open meetings with sectarian prayer
- Shakeisha Gray spoke in opposition to the Board continuing to open meetings with sectarian prayer
- Alvin Drye spoke in support of the Board continuing to open meetings with sectarian prayer

- Brian Vanderford spoke in support of the Board continuing to open meetings with sectarian prayer
- David Hand spoke in support of the Board continuing to open meetings with sectarian prayer
- Allen Montgomery spoke in support of the Board continuing to open meetings with sectarian prayer
- Nathan Allen Kirkman spoke in support of the Board continuing to open meetings with sectarian prayer
- Claude Daniel Flowe spoke in support of the Board continuing to open meetings with sectarian prayer
- Rev. Johnny Boggs spoke in support of the Board continuing to open meetings with sectarian prayer
- Greer Marchand - spoke in support of the Board continuing to open meetings with sectarian prayer
- John Yedowitz spoke in support of the Board continuing to open meetings with sectarian prayer
- Josh Montgomery spoke in support of the Board continuing to open meetings with sectarian prayer
- John Burke felt the majority of people in Rowan County were not concerned about the prayer issue
- Rev. Gary Posey spoke in support of the Board continuing to open meetings with sectarian prayer
- Marsha Rhinehart spoke in support of the Board continuing to open meetings with sectarian prayer
- William McCubbins spoke in support of the Board continuing to open meetings with sectarian prayer

Two (2) individuals, John and Marina Bare, arrived late and asked permission to address the Board.

Commissioner Barber moved, Commissioner Ford seconded and the vote to accept John and Marina Bare's comments passed unanimously.

- John Bare spoke in support of the Board continuing to open meetings with sectarian prayer
- Marina Bare spoke in support of the Board continuing to open meetings with sectarian prayer

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

Chairman Mitchell thanked those who had addressed the Board for exercising their constitutional rights.

Chairman Mitchell called for a recess at 4:35 pm.

Chairman Mitchell reconvened the meeting at 4:50 pm.

## **2. PUBLIC HEARING FOR PROJECT PROTEIN**

Economic Development Director Robert Van Geons presented the economic impact analysis for the potential expansion of Ei, A Pharmaceutical Solutionsworks (Ei) in Rowan County. David Parker, Chief Operating Officer from Ei was also in attendance to answer any questions the Board might have.

Mr. Van Geons said the proposed expansion would represent approximately \$28.45 million of new investment in Rowan County and add an additional 154 positions. Mr. Van Geons said the average wage would be \$41,106 per year.

Mr. Van Geons reported that Ei was located at 2865 North Cannon Boulevard in Kannapolis with 210 current employees. Mr. Van Geons said the company manufactured prescription pharmaceutical and over-the-counter products.

Mr. Van Geons went on to state that Ei is in discussions with a North Carolina-based biomaterials company (NCBBC), to become the Company's development and manufacturing partner for its' keratin intellectual property platform. Mr. Van Geons said that Ei is one of several contract manufacturers in the United States and Canada under consideration.

According to Mr. Van Geons, the proposal appeared to meet the investment criteria for a "Level 1 Grant".

In response to an inquiry from Commissioner Sides, Mr. Van Geons discussed the formula for state grants.

Chairman Mitchell opened the public hearing to receive citizen input regarding the proposed incentive for Ei.

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

Commissioner Sides praised the EDC Board and its staff and said the incentive agreement was probably the best written agreement submitted to the Board during his tenure as a Commissioner.

Commissioner Sides referred to *Section 4, Model of County Revenue – 10-year Horizon*, and discussed the benefits to the County for a 10-year incentive.

Commissioner Coltrain expressed appreciation to Mr. Parker for the company being located in Rowan County and also for considering the County for the possible expansion.

Commissioner Barber questioned the 10-year incentive model and Mr. Van Geons described the program before the Board as different. Mr. Van Geons said perhaps the larger projects should be over a 10-year period and the smaller investments for a smaller period of time. Mr. Van Geons said it would be difficult to find a template that worked for all projects.

Commissioner Barber said the Board could not create jobs; however, the County could foster an environment that would make companies want to locate in Rowan County or cause existing businesses to want to expand.

Commissioner Ford expressed his appreciation to Ei for bringing jobs to Rowan County.

Commissioner Barber moved approval of Project Protein as presented. The motion was seconded by Commissioner Coltrain and passed 4-1 with Commissioner Sides dissenting.

### **3. PUBLIC HEARING FOR ZTA 02-11**

Senior Planner Shane Stewart reviewed miscellaneous amendments to the Zoning and Noise Ordinance. The existing text in the ordinance proposed to be removed appeared as ~~striketroughs~~ and proposed text appeared as **bold red text**.

Mr. Stewart highlighted the mostly clerical and procedural changes relating to the conditional use permit process with a few other amendments.

Mr. Stewart discussed item #2 on page 5 and pointed out that failure of the Board to set a public hearing regarding an amendment constituted denial of the request and conditions of the original permit would remain in effect. Commissioner Coltrain felt the applicant should be provided with feedback as to why a request would not be heard.

Chairman Mitchell asked if the applicant would file a request for a conditional use permit if the applicant wanted to force the Board to respond. Mr. Stewart said if the Board did not set a public hearing, the rules for the previous proposal would hold true.

County Attorney Jay Dees discussed the applicant's due process rights and said any decision the Board made was ultimately the applicant's right to file an appeal with the courts. Mr. Dees said if it had been more than one (1) year since the initial conditional use permit application, it was not considered an amendment but rather a brand new application.

Mr. Stewart said the Planning Board had voted unanimously to recommend approval of the request as presented with the following Statement of Consistency: "Board has found ZTA 02-11 Miscellaneous Amendments to

Zoning and Noise Ordinance to be favorable and meets criteria necessary to move on to the Board of Commissioners”.

Chairman Mitchell opened the public hearing to receive citizen input regarding the proposed amendments and with no one wishing to address the Board, Chairman Mitchell closed the public hearing.

Commissioner Sides moved, Commissioner Barber seconded and the vote to approve the Statement of Consistency and to grant ZTA 02-11 passed unanimously.

**4. PUBLIC HEARING FOR SCATTERED SITE / CDBG APPLICATION**

Planning and Development Director Ed Muire said the County’s Scattered Site Housing / Community Development Block Grant (CDBG) application to the NC Department of Commerce’s Division of Community Investment and Assistance was being finalized for submittal to DCA.

Mr. Muire presented the resolution (Attachment A) acknowledging the County will assist in the rehabilitation of six (6) owner occupied homes and the clearance and relocation of one (1) home.

The resolution was presented as follows:

WHEREAS, the North Carolina Division of Community Investment and Assistance is a significant source of funding for maintaining and creating affordable housing within Rowan County; and

WHEREAS, the North Carolina Division of Community Investment and Assistance has conditionally awarded Rowan County \$400,000 for Scattered Site Owner-Occupied Housing funds for Rowan County residents; and

WHEREAS, the funds are expected to assist low income families with housing rehabilitation or relocation assistance; and

WHEREAS, Rowan County will realize additional social benefits in the form of preserving its affordable housing stock for low and moderate income citizens.

NOW, THEREFORE, BE IT RESOLVED BY THE ROWAN COUNTY BOARD OF COMMISSIONERS:

That the Board of Commissioners of Rowan County will substantially comply with all Federal, State and local laws, rules, regulations and ordinances pertaining to the project and to Federal and State grants pertaining thereto.

That, Chad Mitchell, Chairman of the Board of Commissioners and Gary L. Page, County Manager, and successors so titled are hereby authorized and directed to furnish such information as the appropriate governmental agencies may request in connection with such applications for the project; to make the assurances and certifications as contained above, and to execute other such documents as may be required in connection with the administration of the project. That this Resolution shall take effect immediately upon its adoption.

That the County will submit an application to the North Carolina Division of Community Investment in the amount of \$400,000 as funding for the Rowan County Scattered Site Housing Program.

Attachment B of the report represented the list of the homes that were evaluated for participation in the grant program. The ranking of these homes were prioritized by the Housing Selection Committee, which consisted of a Planning Staff member and the mayor or manager from each of the municipalities except Kannapolis and Salisbury.

Chairman Mitchell opened the public hearing to receive citizen input regarding the Scattered Site/ CDBG application. With no one wishing to address the Board, Chairman Mitchell closed the public hearing.

Commissioner Sides moved approval of the authorizing resolution. The motion was seconded by Commissioner Barber and passed unanimously.

Commissioner Sides moved approval of the list of applicants, which was Attachment B. The motion was seconded by Commissioner Barber and carried unanimously.

#### **5. CONSIDER APPROVAL of SCATTERED SITE HOUSING / CDBG PROGRAM ADMINISTRATOR**

Planning and Development Director Ed Muire said local governments that opt to have their Scattered Site Housing / Community Development Block Grant Program (Program) administered by a consultant must procure the services. Mr. Muire said Staff posted a Request for Proposals (RFP) on the departmental website and advertised in the Salisbury Post.

Mr. Muire reported that two (2) candidates submitted proposals for consideration: Katherine Simmons and Hobbs, Upchurch and Associates (HUA). Based on the evaluation criteria, Staff recommended the Board authorize Staff to negotiate a contract for program administration of the Program. The recommendation also suggested authorizing the County Manager or the Chairman to sign the necessary contract(s) for services as required.

Commissioner Coltrain moved, Commissioner Barber seconded and the vote to select HUA as Administrator passed unanimously.

Commissioner Ford moved to authorize the County Manager and Chairman to sign the necessary contracts. Commissioner Sides seconded and the motion passed unanimously.

#### **6. SECOND CONSIDERATION OF FPO 01-11**

This item was deleted from the agenda.

## **7. CONSIDER LETTER OF INTENT FOR PURCHASE OF FAIRGROUNDS PROPERTY**

Chairman Mitchell said there had been ongoing discussions regarding the fairgrounds property, including discussions that would potentially move the current fairgrounds site to the other side of Old Concord Road on Heilig Road. Chairman Mitchell said since the Board did not have an actual survey of the property, a new survey was just completed for the property as it currently existed. Chairman Mitchell said the RCFA owned the triangular piece of property on the corner of Old Concord and Julian Roads.

John Love, Manager of the Rowan County Fair Association (RCFA), presented the Board with a proposed Letter of Intent (LOI) with respect to the potential purchase by the RCFA of the county-owned property located on the north side of Julian Road. The purchase price offered was one million dollars and payment was to be made by delivery and receipt of a promissory note as identified in Exhibit A.

Mr. Love said the RCFA needed a permanent home. Mr. Love said it had been estimated it would cost at least \$1 million to build the infrastructure on the Heilig Road site.

Mr. Love said the tax value of the existing fairgrounds property was \$1 million, which was the amount the RCFA was offering.

Mr. Love discussed needed repairs at the current fairgrounds site; he also stated the RCFA had spent approximately \$65,000 over the past few years in good faith hoping to keep the fair at its present location. Mr. Love said if the RCFA was going to continue investing money at the current site, the RCFA needed to ensure the site would be a permanent home. Mr. Love said the County did not have a location to hold large events and the RCFA would like to improve the facilities and allow them to be used year round for the enjoyment of everyone.

Chairman Mitchell said what further complicated the issue was the property on the south side of Julian Road was county-owned property used for fairgrounds parking. Chairman Mitchell said approximately 40 acres on the north side of Julian Road was used as the fairgrounds property. Chairman Mitchell said there is additional property that abuts to community college property. Chairman Mitchell said the County Manager had indicated it would not be a problem to fill in the creek shown on the survey.

Mr. Love said if the college needed to expand, the area could possibly be a parking lot that both the college and RCFA could use.

Commissioner Coltrain felt it would be best to sell the RCFA all the property on the north side of Julian Road, including the woods. Commissioner Coltrain said once the wood had been harvested, the drainage issues could be resolved.

Commissioner Coltrain said if the County agreed to sell the property, the Board could give the RCFA a specified number of years to have the area cleared and ready for parking, perhaps by 2013. Mr. Love responded that such a timeline would be tough for the RCFA to adhere to.

Commissioner Coltrain said the County could eliminate parking on the south side and the danger of crossing Julian Road. Commissioner Coltrain said the RCFA might give the County the corner parcel in exchange.

Mr. Love estimated it would take 3 to 5 years to have a feasible parking lot behind the fairgrounds.

Commissioner Sides said the fairgrounds property had been discussed many times since 2004. Commissioner Sides said he had not seen the new survey and expressed hope the Board would not vote on the matter until he had been provided the opportunity to review the survey.

Chairman Mitchell said the survey had been completed at the end of the previous week. County Manager Gary Page said the survey was left open so that the lines could be adjusted and made final by any sale.

Chairman Mitchell said he had no problem waiting 2 weeks to allow the survey to be reviewed. Chairman Mitchell felt \$1 million was a fair purchase price. Chairman Mitchell said if the Board was to move forward with the sale, he would like for the financing to be moved over to traditional financing as soon as possible.

Mr. Love discussed financing and said the RCFA wanted to purchase the property for use as a fairgrounds property, as well as hold other events for the County. Mr. Love said the RCFA had no intentions to sell the property but rather planned to make it a nicer fairground site.

Commissioner Barber moved to table the LOI for purchase of the fairgrounds property as presented until the next meeting on March 19, 2012. The motion was seconded by Commissioner Coltrain.

Commissioner Sides said the County took over the maintenance of the property in an attempt to do a better job; however, he said he was uncertain the County had done a better job. Commissioner Sides said there were fixed costs in maintaining the property each year and he was ready to sell the property and move on.

Commissioner Sides expressed concern that there could be hidden motives behind purchasing the property. Commissioner Sides said the County currently had a policy prohibiting alcohol on county-owned property and that he would want that policy incorporated into any agreement. Commissioner Sides said as

long as the County was owed money on the property he wanted the agreement to state there would be no alcohol bought, sold or consumed on the property.

Commissioner Coltrain referred to the Coon Hunters event recently held at the fairgrounds property and said those attending the event came from as far away as Texas. Commissioner Coltrain said it was estimated that 12,000 people attended the three-day event. Commissioner Coltrain said if those 12,000 people spent \$10 each in the County, it would be a win-win for all. Commissioner Coltrain said if the RCFA could develop the facility and increase the number of events, the County would benefit from the sales tax. Commissioner Coltrain said he was in favor of the offer.

Mr. Love said the rental of the fairgrounds property had greatly diminished over the past four (4) years. Mr. Love said the Coon Hunters had expressed an interest the previous year in moving the event to Lexington, NC due to the condition of the buildings. Mr. Love said he would hate to see the County lose such a good venue.

Commissioner Barber said selling the property would give the RCFA flexibility to do things Rowan County Government had not been able to do since taking over the management of the property. Commissioner Barber said the number of events held at the fairgrounds had dwindled from approximately 30 events per year down to 5 events. Commissioner Barber said he would like to see the property become the permanent home for the fair.

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

Chairman Mitchell called for recess at 5:52 pm.

Chairman Mitchell reconvened the meeting at 6:05 pm.

## **8. DISCUSSION REGARDING COUNTER PROPOSAL FROM CROWN AND ASSOCIATES FOR CELL TOWER LEASE**

County Manager Gary Page presented an updated offer from Crown and Associates for an extension of the current lease. The terms offered remained the same, except for the 20-year extension and an increase in rent of \$1100 per month at the next renewal.

Mr. Page said the counter offer increased the projected revenue to the County in the amount of \$608,802 over the full term of the lease. Mr. Page said one of the main points for Crown was they were the sole user of the tower.

Commissioner Sides moved to accept the proposal presented based on the fact that if the County did nothing, it could lose the 20-year income. The motion was seconded by Commissioner Barber and passed unanimously.

**9. CONSIDER OFFER TO PURCHASE COUNTY OWNED PROPERTY OFF AMITY HILL ROAD**

County Manager Gary Page said the Board received an offer in the amount of \$32,000 for property identified as Tax Map 265 Parcel 030. The property is vacant and located off Amity Hill Road and currently assessed at \$47,736. The parcel was split into two (2) tracts when the North Carolina Department of Transportation (NCDOT) changed the access for Amity Hill Road.

Commissioner Barber moved to declare the TP 265 030 as surplus. The motion was seconded by Commissioner Sides and passed unanimously.

Commissioner Barber moved to accept the offer and to instruct the Clerk to the Board to advertise the offer to begin the upset bid process. The motion was seconded by Commissioner Coltrain and passed unanimously.

**10. CONSIDER APPROVAL OF BUDGET AMENDMENTS**

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

- Finance – To budget revenue and expenditures for 2007 Homeland Security Grant – 2001-GE-T7. The grant reserve funds were not carried forward in FY 2012 and the grant has been extended until June 30, 2012 - \$4,085
- Social Services – To budget the value of Surplus Commodities received from the Department of Agriculture for SFY11-12 - \$20,539
- Social Services – To budget funding received for foster care visits (new program) - \$11,066
- Social Services – To increase expenditures and revenues for Child Care Subsidy payments based on funding authorization from the Division of Child Development for FY 2012 - \$4,825
- Finance – To appropriate funds to increase revenues and expenditures for audit discoveries – \$150,000
- Finance – To appropriate additional funds for Risk Management workers compensation and professional and property liability estimated claims for remainder of FY 2012 - \$250,000

Commissioner Coltrain moved approval of the budget amendments as presented. The motion was seconded by Commissioner Sides and passed unanimously.

**11. CONSIDER APPROVAL OF BOARD APPOINTMENTS JUVENILE CRIME PREVENTION COUNCIL**

Alisa Russell submitted an application for consideration for an at large slot. The term would be for two years beginning February 1, 2012 and expiring June 30, 2014.

Commissioner Ford nominated Alisa Russell and the nomination passed unanimously.

Nathan Currie submitted an application to serve as the Rowan Salisbury School System (RSSS) Superintendent's designee.

Commissioner Coltrain stated he would go along with the RSSS recommendation for Mr. Currie. Commissioner Coltrain said the school system was comfortable with the recommendation and as long as RSSS assumed the responsibility, he would support the recommendation.

Commissioner Sides said he assumed that Mr. Currie's name had been changed legally from his real name of Nathan Brown. Commissioner Sides said he did not understand the name change and that he had questions about Mr. Currie serving on this particular Board. Commissioner Sides said he would not vote for Mr. Currie.

The recommendation for Mr. Currie failed 1-4 with Commissioners Mitchell, Ford, Barber, and Sides dissenting.

Commissioner Sides moved that RSSS nominate someone else for the position. Commissioner Barber seconded and the motion passed 4-1 with Commissioner Coltrain dissenting.

#### **SALISBURY ZONING BOARD OF ADJUSTMENT ETJ**

The City of Salisbury requested the appointment of Frank Thomason to serve as an ETJ member on the Salisbury Zoning Board of Adjustment. The term is for two (2) years beginning April 1, 2012 and expiring March 31, 2014.

Commissioner Sides moved, Commissioner Coltrain seconded and the vote to appoint Mr. Thomason passed unanimously.

#### **ROWAN TRANSIT SYSTEM ADVISORY BOARD**

Chandra Warren submitted an application for consideration as a representative from the Nursing Home category. The term is for three (3) years, beginning April 1, 2012 and expiring March 31, 2015.

Commissioner Sides nominated Chandra Warren and the nomination passed unanimously.

#### **SALISBURY-ROWAN COMMUNITY ACTION AGENCY**

There are two (2) vacancies and Deborah Howell submitted an application for consideration. The term is for two (2) years beginning April 1, 2012 and expiring March 31, 2014.

Commissioner Ford nominated Deborah Howell and the nomination passed unanimously.

## **ZONING BOARD OF ADJUSTMENTS**

There are three (3) vacancies and the following application was submitted:

- Teddy Jefferson Morris for reappointment

The term is for three (3) years beginning April 1, 2012 and expiring March 31, 2015.

Commissioner Barber nominated T. Jefferson Morris and the nomination carried unanimously.

### **12. CLOSED SESSION: ATTORNEY CLIENT PRIVILEGED COMMUNICATION REGARDING WORKER'S COMPENSATION CLAIM**

Commissioner Ford moved that the Board enter Closed Session at 6:12 pm in accordance with North Carolina General Statute 143-318.11(a)(3) for attorney client privileged communication. The motion was seconded by Commissioner Barber and passed unanimously.

The Board returned to Open Session at 6:36 pm. No action was taken as a result of Closed Session.

### **ADJOURNMENT**

There being no further business to come before the Board, Commissioner Coltrain moved to adjourn at 6:36 pm. The motion was seconded by Commissioner Ford and passed unanimously.

Respectfully Submitted,

Carolyn Athey, CMC, NCCCC  
Clerk to the Board/  
Assistant to the County Manager