

**MINUTES OF THE MEETING OF THE  
ROWAN COUNTY BOARD OF COMMISSIONERS**

**October 15, 2012 – 6:00 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  
Jim Sides, Member

Absent: Raymond Coltrain, Member

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

Chairman Mitchell convened the meeting at 6:00 p.m.

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

Chairman Mitchell mentioned that the absence of the Clerk to the Board and the absence of the County Attorney was due to family emergencies. Chairman Mitchell also noted the County had a new Webmaster.

**CONSIDER APPROVAL OF THE MINUTES**

Commissioner Ford moved, Commissioner Sides seconded and the vote to approve the minutes of the October 1, 2012 Commission Meeting passed unanimously (4-0).

**CONSIDER ADDITIONS TO THE AGENDA**

There were no additions to the agenda.

Commissioner Barber made a motion to remove Item #7 from Closed Session to Open Session since it was for attorney-client privileged communication and did not relate to a personnel matter.

Commissioner Sides said while he was in favor of transparency, he felt there were matters that may be discussed by the Attorney in Closed Session that were worthy of Closed Session. Commissioner Sides stated that once the Closed Session was over, anything that was not privileged information would be discussed.

Commissioner Barber said he was only referencing the information in Closed Session that was dealing with the attorney-client privileged information contained in the agenda packet.

Chairman Mitchell stated that the issue was dealing with a potential legal matter covered under statute 143-318.11(a)3. Chairman Mitchell said once he had heard what the Attorney had to say he had no problem making the information public. Chairman Mitchell went on to say that the Attorney may indicate issues that should not be discussed in public.

The motion died due to lack of a second.

#### **CONSIDER DELETIONS FROM THE AGENDA**

Commissioner Barber made a motion to remove Item #5, Consider Approval of Resolution for Rowan County Volunteer Fire Departments, due to Commissioner Coltrain not being present for the discussion. The motion died for lack of a second.

#### **CONSIDER APPROVAL OF THE AGENDA**

Commissioner Barber moved, Commissioner Sides seconded and the vote to approve the agenda passed unanimously (4-0).

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

Commissioner Barber requested to move Consent Agenda Item E (Adopt Transcripts as the Official Record for August 1-3, 2011 Hearings for CUP 02-10), to the regular agenda.

Chairman Mitchell placed the issue on the agenda as Item #6B.

Commissioner Sides moved approval of the Consent Agenda. The motion was seconded by Commissioner Barber and passed unanimously (4-0).

The Consent Agenda consisted of the following:

- A. Set Public Hearing for November 5, 2012 for Z 06-12
- B. Proclamation for Young Marines Red Ribbon Week
- C. Donate Calliope Back to Ed Brown
- D. Authorization for Control Burn at Eagle Point Preserve
- E. Adopt Transcripts as the Official Record for August 1-3, 2011 Hearings for CUP 02-10 (pulled for discussion)
- F. Authorize Hazard Mitigation Plan Update for 2015

## **2. 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:

- Travis Summitt voiced his concerns with the Resolution on the agenda pertaining to Volunteer Fire Departments (VFD).
- Kent Cooper talked about a piece of property he owns in Cleveland that he is trying to get rezoned.
- Mike Zimmerman, President of the Rowan Fire Association, voiced his concerns with the Resolution on the agenda pertaining to VFD.
- John Thomason, Vice President of Rowan County Fire and Rescue Association voiced his concerns with the Resolution on the agenda pertaining to VFD.
- Charles Miller spoke in opposition to the Resolution for Rowan County VFD.
- James Rollans spoke regarding the Closed Session on the agenda and urged the Board to consider whether the County had any further obligations in the matter.
- Rose Lacasse spoke regarding the Closed Session on the agenda and urged the County to not take a lead should the issue be appealed due to the costs associated with appealing.
- David Linker questioned the need for the Resolution on the agenda pertaining to VFD.

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

## **3. CONSIDER REQUEST TO ALLOW CAROLINA ANTIQUE POWER ASSOCIATION TO CONSTRUCT FARM LIFE CENTER AT SLOAN PARK**

Parks and Recreation Director Don Bringle presented a request from the Carolina Antique Power Association (CAPA) to construct a 5200 to 5800 square foot building at Sloan Park. Mr. Bringle said Randy Ellum, Chairman of CAPA was in the audience to address any questions the Board might have.

Mr. Bringle stated that the Rowan County Parks and Recreation Board recommended that CAPA be allowed to construct the building. Mr. Bringle said CAPA would contract, build and fund all costs associated with the construction. The building would be gifted to the County once the project was complete. Mr. Bringle said CAPA had secured funding for the project and would like to begin construction. CAPA would be responsible for the operation and education to the public during the operating hours of the park system. Mr. Bringle said park staff would not be responsible for programming or opening the exhibit building.

Commissioner Barber moved that pending a satisfactory Memorandum of Understanding (MOU) between the Rowan County Board of Commissioners and

CAPA, the Board approve the request for CAPA to construct the Farm Life Center at Sloan Park. The motion was seconded by Commissioner Sides.

Commissioner Sides said this was an item that had previously been before the Board and he was glad the organization would be responsible for the staffing of the facility.

Commissioner Barber said the transfer of the deed for the fairgrounds property to the Fair Association, as well as the decision to allow the construction of the Farm Life Center, were two (2) initiatives that demonstrated the Board's support of a local sustainable economy.

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

Commissioner Mitchell called for a recess at 6:31 p.m.

Chairman Mitchell reconvened the meeting at 6:37 p.m.

#### **4. CONSIDER RECOMMENDATION REGARDING DENTAL PROGRAMS FOR ROWAN COUNTY CITIZENS**

County Manager Gary Page presented two (2) public dental plan cost comparisons for the Board's review. Mr. Page said the Human Resources Department had evaluated the two (2) plans showing the benefits for both maintenance costs and critical care costs.

Mr. Page explained that upon review, the NACo plan appeared to be more costly per office visit for maintenance care; however, with two (2) cleanings and exams per year, NACo was actually the cheapest plan.

Mr. Page recommended the County adopt the NACo Plan for Rowan County citizens.

Chairman Mitchell said the ProAct plan had a cheaper yearly cost, but the plan was determined to cover less and cost more for maintenance care. Chairman Mitchell outlined that there was a yearly cost with the NACo Dental Plan, unlike the NACo Prescription Plan.

Commissioner Sides questioned how soon the plan could be implemented. Mr. Page said he did not know the answer and that the County would need to approve a sponsor prior to anyone being able to sign for the plan.

In response to an inquiry from Commissioner Sides, Mr. Page said there would be a list of participating dentists.

Commissioner Barber moved to accept the County Manager's recommendation to accept the NACo Dental Card Program. Commissioner Barber also expressed

his displeasure that the issue had taken five (5) months to come back before the Board.

Commissioner Sides seconded the motion. Commissioner Sides said the Board and staff had dealt with several heavy agenda items over the past few months. Commissioner Sides commended Staff for prioritizing those items, studying the dental plans and bringing back a recommendation.

Upon being put to a vote, the motion passed unanimously (4-0).

## **5. CONSIDER APPROVAL OF RESOLUTION FOR ROWAN COUNTY VOLUNTEER FIRE DEPARTMENTS**

Chairman Mitchell said the Resolution in the agenda packet was prepared at the Board's request to provide information to the Volunteer Fire Departments (VFD) concerning the Board's requirements and direction in specific areas.

The Resolution was presented as follows:

**WHEREAS**, in accordance with North Carolina General Statute § 153A-233, the Rowan County Board of Commissioners currently contracts with volunteer fire departments to provide fire protection services, and;

**WHEREAS**, the Rowan County Board of Commissioners as the Governing Body of Rowan County is granted the statutory authority to levy and collect a special tax for the purpose of providing fire protection for the citizens of Rowan County; and

**WHEREAS**, the taxes collected for fire protection purposes are placed in a special fund administered by the Rowan County Board of Commissioners; and

**WHEREAS**, in accordance with North Carolina General Statute § 69-25.7, the Board of Commissioners appoints the Fire Commissioners for the volunteer fire departments to oversee the general budgeting and spending of money for each department and said Fire Commissioners serve at the discretion of and under the supervision of the Board of Commissioners.

**NOW, THEREFORE, BE IT RESOLVED**, that the Rowan County Board of Commissioners, by adoption of this Resolution, do hereby direct the following for each volunteer fire department in Rowan County:

1. A public hearing must be held in the respective district if there is a proposed fire tax increase for any fiscal budget year. The fire departments should advertise the public hearings throughout their districts by use of flyers and bulletin boards. A written notice of the public hearing shall be submitted to the Clerk to the Board for notification to the Board of Commissioners at least ten (10) days prior to the public hearing. The Clerk shall also place notification of the public hearing on the County's Website.
2. Purchases of equipment, etc., totaling \$10,000 or greater will be listed in the volunteer fire department's proposed budget. This requirement does not apply to emergency or unexpected maintenance repairs.
3. The Board of Commissioners shall be notified, prior to purchase, of any major capital purchases of \$10,000 or greater which were not included in the department's current year budget. This requirement applies regardless of the source of the funds to be used for the purchase.
4. Requests from fire departments for letters of approval to financial institutions will only be signed by the Chairman of the Board of Commissioners for planned purchases approved during the budget process.

**FURTHER, BE IT RESOLVED**, that this Resolution also represents the Board of Commissioners support, appreciation and gratitude to the firefighters in Rowan County for their dedication, contributions and personal sacrifices in preserving the health, welfare and safety of our community.

Chairman Mitchell discussed the need for the Resolution. Chairman Mitchell said one reason came from the last budget process and questions as to where the public hearing requirement for a tax increase had been put in writing. Chairman Mitchell said several people had looked at creating a document that would provide direction from the Board for the VFD to hold a public hearing should there be request for a change or increase in the fire tax rate.

Chairman Mitchell said another reason for the Resolution recently arose when a bank required the County to submit a letter on behalf of a VFD making an equipment purchase. The letter stated that the County did not have an objection to the purchase that was about to be made. Chairman Mitchell said that the County would have to back the loan, either through the taxing powers to that district or taxing powers to the County.

Chairman Mitchell said there were four requirements in the Resolution. The first being a restatement that a public hearing must be held in the respective district if there was a proposed fire tax increase for any fiscal budget year. Chairman Mitchell said the County had been operating on that unwritten policy for several years and the unwritten policy needed to be in writing.

Chairman Mitchell felt the next two (2) items in the Resolution were causing the most concern for the VFD. Chairman Mitchell said there was a recommendation that when a fire department made a purchase of equipment of \$10,000 or greater the VFD would notify the Board. Chairman Mitchell explained that \$10,000 was double what the County Finance Director recommended and greater than what was required of regular county departments. Chairman Mitchell said the passage of the Resolution was not a requirement that the Board approve any VFD purchase. Chairman Mitchell said the only requirement in the Resolution was that if there was a major purchase totaling \$10,000 or greater, the Board shall be notified. Chairman Mitchell stated that the Board would not have veto authority or try to stop the purchase. Chairman Mitchell noted that when a purchase was made by a VFD, under most circumstances, they would be doing so with tax dollars. Chairman Mitchell said when the VFD budget came before the Board there could be questions as to why there was a need for certain expenditures. Chairman Mitchell explained that all the Resolution would be doing would be keeping the Board "in the loop" so that when approached each March with the budget, there were no big questions and the Board would know the direction the VFD was going. Chairman Mitchell said the Resolution would be a formal means of communication. Chairman Mitchell said the Board would not stop a VFD from doing the job that needed to be done. Chairman Mitchell said the Board shall be notified for any purchase over the capital amount set by the Board. Chairman

Mitchell used the example of a VFD finding a deal on a much needed vehicle and the VFD having to move quickly to secure the deal, they would still need to notify the Board after the fact. Chairman Mitchell said emergency purchases were excluded from the notification requirements. Chairman Mitchell stressed that all the Resolution was doing was creating a formal method of communication.

Commissioner Sides said that some VFD present budgets in a one page breakdown of line items and amounts needed, while other VFD present a format with a detailed explanation and in a paragraph format explaining the changes. Commissioner Sides said other VFD gave no explanations whatsoever. Commissioner Sides stated that the Board simply liked to know what was going on to make informed decisions on the budget. Commissioner Sides said that if a VFD came before the Board wanting a tax increase, there would be questions asked. Commissioner Sides said most VFD knew of major upcoming expenses and were able to include those expenses in their budgets. Commissioner Sides said when making an unforeseen purchase for which the VFD could not wait, the Board was only asking for information. Commissioner Sides said if another letter came up for the Chairman to sign without prior knowledge, he would not vote for it. Commissioner Sides said purchases of large trucks and buildings created a future liability for the County and he wanted to know what was going on.

Commissioner Sides said he had spoken to several firemen and would be willing to increase the notification limits established in the Resolution from \$10,000 to \$20,000.

Commissioner Sides moved to adopt the Resolution with the increase in notification limits in items numbered two (2) and three (3) from \$10,000 to \$20,000. Commissioner Ford seconded the motion.

Commissioner Barber discussed the Board's funding policy for non-profits and said he did not want to pass resolutions if current policies were not being enforced. Commissioner Barber asked the following four (4) questions for which he felt the answer was no:

1. Are the citizens in the VFD communities filing complaints?
2. Are there issues with the appointed VFD Commissioners?
3. Does the Resolution account for VFD funded by more than two Boards of Commissioners?
4. Was there a belief that there could be more effective oversight of the procurement process than what was currently in place?

Commissioner Barber said the funds being discussed were coming from a fund for VFD. Commissioner Barber explained that VFD were private corporations that could at any time sell their assets to pay off debt and tell the County it would have to provide the services. Commissioner Barber said the VFD were established with community involvement and he would hate to see the Board pass resolutions to discourage moving away from a community involvement

model to a model of people who live in a community. Commissioner Barber said he would like to see the Board move away from the perception that the Board values conflict and confrontation rather than community and caring. Commissioner Barber said when resolutions were interjected, it created more government and he would like to see less government. Commissioner Barber said he would not support the resolution.

Commissioner Ford agreed there were conflicts and conflicts sometimes occurred when Commissioners go out in public and stir things up. Commissioner Ford said it had happened on other issues with misinformation. Commissioner Ford said the Resolution was a vote to clean up issues and ask for information. Commissioner Ford said he had citizens complain and questions asked as to why a VFD had a new fire truck or a new building and he had no idea due to a lack of information. Commissioner Ford agreed to the increase in the notification amount to \$20,000. Commissioner Ford also stated that he appreciated the firefighters and he reemphasized the Resolution was for information only.

In summary, Chairman Mitchell said the Resolution would formalize the public hearing requirement for any proposed tax increase by a VFD. Chairman Mitchell said if a purchase was included in the budget, it was considered notification to the Board. Chairman Mitchell said if there was a purchase that exceeded the \$20,000 as stated in the Resolution, the VFD should send the Clerk an email regarding the purchase plans and the Clerk would notify the Board. Chairman Mitchell said if time was of the essence, the VFD should go ahead and make the purchase and notify the Commissioners afterwards. Chairman Mitchell emphasized the fact that the requirements were no more and no less.

Upon being put to a vote, the motion on the floor passed 3-1 with Commissioner Barber dissenting.

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

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

- Finance – Budget funds to install a Cassidian Patriot CDR output to implement the NC 911 Board's statewide call accounting system. The NC 911 Board voted to pay for all CDR port activation costs with the Board's Administrative Fund through a reimbursement process - \$5,305
- Health – Smart Start Grant funding increase for Healthy Beginnings \$6,644; Child Care Health Consultant \$7,446 and Health Link \$993.
- Health – The state has decided not to fund the Health and Wellness Grant, Teen Tobacco Prevention Program for FY 2013 - \$100,000
- Sheriff – Recognize excess funds in revenue account and budget to expense accounts - \$56,435

- Sheriff – Recognize funds from Justice Assistance Grant (JAG) for 2012 and budget to proper expense accounts to purchase approved equipment - \$14,111
- Social Services – Revise expenditures and/or revenues based on funding authorizations received from the State (the amendment includes State In Home Fund, Adult Home Specialist Fund, Social Services Block Grant and TANF Transferred to SSBG) - \$69,893
- Social Services – Revise expenditures and/or revenues based on funding authorizations received from the State (the amendment includes Child Day Care Payments, Child Day Care Administration, TANF Child Welfare Workers, Work First Block Grant and Adult Day Care - \$315,561
- Finance – To appropriate revenues, fund balance and expenditures for fiscal year 2012 encumbrances - \$532,825

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

**6(b) - ADOPT TRANSCRIPTS AS THE OFFICIAL RECORD FOR AUGUST 1-3, 2011 HEARINGS FOR CUP 02-10**

(This item was pulled from the Consent Agenda for discussion).

Commissioner Barber asked Attorney Anthony Fox for points of clarification on the timeline of events. Commissioner Barber stated that the quasi-judicial hearings were held on August 1-3, 2011 and shortly thereafter, the transcripts were created and were presented through the judicial process on December 7, 2011. Commissioner Barber questioned the delay from December 7<sup>th</sup> until now for the transcripts to be presented for approval.

Mr. Fox responded that all parties involved agreed in lieu of the Clerk, Carolyn Athey, providing the official minutes of the hearing the official minutes would be provided by a court reporter that DCBI and the Mt. Ulla Community agreed to share the cost in. Mr. Fox said the court reporter then had to subscribe three (3) days worth of testimony and the initial effort and transcription were found to be in error as preparations were being made for the hearings. Mr. Fox said there were a host of errors in the original transcript. Mr. Fox went on to explain that after a review by the attorneys for the citizens group and a review by him, points of error were identified based upon comparison with the audio and video capabilities that Rowan County had. Mr. Fox said there was confirmation of the errors and there was a correction of the initial transcript incorporating the corrections resulting in a final document. Mr. Fox said the corrections contributed in the delay of a final document and that document was not available until the hearing that was recently held.

Commissioner Barber asked how many errors were contained in the original document, to which Mr. Fox answered a substantial amount.

Commissioner Barber asked if there was any reason other than timing as to the delay in receiving the transcripts after the judge rendered his decision. Mr. Fox said it was a matter of the court reporter getting the comments from the citizens group and his office and getting those documents back and making the document available, which took place a short time before the hearing. Mr. Fox said as a matter of closing the loop, he provided the revised, corrected transcript to incorporate into the County's records as the official minutes.

Commissioner Barber moved to approve the transcripts. Commissioner Sides seconded and the motion passed unanimously.

#### **7. CLOSED SESSION**

Commissioner Ford moved at 7:01 p.m. that the Board enter Closed Session pursuant to North Carolina General Statute § 143-318.11(a)(1) for approval of Closed Session Minutes and North Carolina General Statute § 143-318.11(a)(3) for Attorney Client Privileged Communication. The motion was seconded by Commissioner Sides and passed unanimously (4-0).

The Board returned to Open Session at 7:36 p.m.

Commissioner Sides moved to authorize the Attorney to appeal the decision of Judge W. David Lee based on res judicata and collateral estoppel and the fact that the County's ordinance allows reapplication. The motion was seconded and passed 3-1 with Commissioner Barber dissenting.

#### **8. ADJOURNMENT**

There being no further business to come before the Board, Commissioner Barber moved to adjourn at 7:37 pm. The motion was seconded by Commissioner Ford and passed unanimously (4-0).

Respectfully Submitted,

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