

**MINUTES OF THE MEETING OF THE
ROWAN COUNTY BOARD OF COMMISSIONERS
November 18, 2013 – 6:00 PM**

J. NEWTON COHEN, SR. ROOM

J. NEWTON COHEN, SR. ROWAN COUNTY ADMINISTRATION BUILDING
.....

Present: Jim Sides, Chairman
Craig Pierce, Vice-Chairman
Jon Barber, Member
Mike Caskey, Member
Chad Mitchell, Member

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

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

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

CONSIDER ADDITIONS TO THE AGENDA

Chairman Sides said the Board had received communication from Dr. Richard Miller, Chairman of the Rowan Salisbury Schools (RSS) Board of Education and Dr. Lynn Moody, Superintendent for RSS. The communication was a request for the Commissioners to add a discussion regarding a recommendation for a location for the proposed central office. Chairman Sides moved to add the request to the agenda. The motion was seconded by Commissioner Caskey and passed unanimously.

Chairman Sides added the issue as agenda item #5a.

CONSIDER DELETIONS FROM THE AGENDA

There were no deletions from the agenda.

CONSIDER APPROVAL OF THE AGENDA

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

CONSIDER APPROVAL OF THE MINUTES

Commissioner Barber moved, Commissioner Pierce seconded and the vote to approve the minutes of the November 4, 2013 Commission Meeting passed unanimously.

1. CONSIDER APPROVAL OF CONSENT AGENDA

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

The Consent Agenda consisted of the following:

- A. Award Service Sidearm to Retiring Sgt. Timothy B. Rowland
- B. Set Public Hearing for December 2, 2013 for Project East
- C. Approval to Purchase Excavator for Environmental Management
- D. Set Public Hearing for December 2, 2013 for Wireless Text Amendments
- E. Set Public Hearing for December 2, 2013 for Project Glass
- F. Ratify Two (2) Budget Amendments in the Minutes
- G. Resolution Against Bullying

2. PUBLIC COMMENT PERIOD

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

- Ken Knight spoke in support of using lethal injections as opposed to gassing animals at the Rowan County Animal Shelter.
- Randy Orloff spoke in support of using lethal injections as opposed to gassing animals at the Rowan County Animal Shelter. Mr. Orloff also provided the Board with a brochure regarding the use of gas chambers.
- Laura Wines Hyde spoke in support of using lethal injections as opposed to gassing animals at the Rowan County Animal Shelter.
- Terry Crowell Kindley spoke in support of a citizens advisory board being appointed to assist the Animal Shelter.
- Cyndy Midgett spoke in support of using lethal injections as opposed to gassing animals at the Rowan County Animal Shelter. Ms. Midgett also provided the Board with a handout.
- Dustin Winstead held up an iPad and showed a video of animals being gassed.
- Jane Felts spoke in support of using lethal injections as opposed to gassing animals at the Rowan County Animal Shelter. Ms. Felts also spoke in support of using volunteers at the Animal Shelter.
- Melissa Connolly provided an online petition containing 9500 signatures that had been generated in support of banning euthanasia by gassing at the Rowan County Animal Shelter.
- Eric Phillips spoke in opposition of relocating county departments from downtown to the Salisbury Mall.

- Eva Jones provided a handout asking the Board to provide complete disclosure regarding plans for the Salisbury Mall
- Gwen Matthews agreed with the comments provided by Eva Jones and asked the Board not to hurt the downtown corridor by moving county departments from downtown to the Salisbury Mall.
- Toby Hagmaier spoke in opposition to moving county departments from downtown to the Salisbury Mall and he also spoke in support of locating a central office downtown for the Board of Education.
- Elizabeth Bailey expressed her appreciation for the Board's approval of a resolution against bullying on the Consent Agenda.
- Bill Godair expressed hope for a resolution to the location for a central office, as well as for the development of the Salisbury Mall property.
- Larry Wright spoke regarding Moral Monday and expressed concern that funding for the demonstrators came from taxpayers.
- John Burke discussed capital improvements in regards to the Salisbury Mall and expressed hope the Board would make good financial decisions for the benefit of the entire county.

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

3. PUBLIC HEARING TO CONSIDER REVISIONS TO ADMINISTRATION ORDINANCE

Chairman Sides said the Board was considering proposed text amendments to the Rowan County Code of Ordinances, Chapter 2 Administration, Article III, Section 2-209. The text amendments would allow for inclusion of an Announcements section on the agenda. The proposed text amendments were presented as follows:

Sec. 2-209. Agenda.

- (a)** ~~(a)~~—The chairman of the board of commissioners shall prepare the agenda for each regular, special and emergency meeting. A request to have an item of business placed on the agenda for a regular meeting must be received by the chairman of the board by 5:00 p.m. the second Friday prior to the meeting. Any board member may, by a timely request, have an item placed on the agenda. Staff requests for agenda items must be approved by the manager. The chairman will give priority to items requiring board action to be placed on the agenda.
- (b) Announcements for a Rowan County municipality sponsored event or a County sponsored event may be submitted via an online form for approval to the chairman of the board for inclusion on the agenda. The announcements must be for public events scheduled within the County. Municipalities are limited to one (1) announcement per commission meeting and County departments may submit one (1)**

announcement per month. Announcements receiving approval **will also be listed on the Rowan County Website.**

(bc) The agenda packet shall include the agenda document, any proposed ordinances or amendments to ordinances, and supporting documentation and background information relevant to items on the agenda. The chairman shall not place items on the agenda if the only supporting documentation is a memorandum and it is apparent that additional information is necessary for board action. A copy of the agenda packet shall be made available to each board member the Wednesday prior to the meeting. Documents in the agenda packet, if not previously available for public inspection, shall become so when packets have been delivered to each board member or left at his or her usual dwelling.

(cd) The board may, by majority vote, add an item not on the agenda, or remove items from the agenda.

(Ord. of 4-1-91, Rule 9; Amend. of 1-4-10)

Sec. 2-210. Informal public comments.

The clerk shall include on the agenda of each regular meeting at least fifteen (15) minutes for comments or questions from the public in attendance. Citizens wishing to address the board will register on a sign-up sheet available with the clerk. The sign-up sheet will be available thirty (30) minutes before the start of the meeting; no one will be allowed to have his/her name placed on the list by telephone request to staff. Comments will be limited to three (3) minutes. The chairman will recognize individuals in the order in which they signed up and then may recognize others, subject to available time. When the time set aside for informal public comment has expired, the chairman will recognize further speakers only upon motion duly made and adopted. If the time period expires before all persons who have signed up get to speak, those names will be carried over to the next public comment period.

(Ord. of 4-1-91, Rule 10; Amend. of 1-4-10)

Sec. 2-211. Order of business.

At regular meetings, the board shall proceed to business in the following order:

- (1) Approval of the minutes of the previous meeting.
- (2) Approval of the agenda.
- (3) **Announcements**
- (3)(4) Informal public comments.
- (4)(5) Scheduled public hearings.

- (5)(6) Administrative reports.
- (6)(7) Reports.
- (7)(8) Introduction of ordinances, resolutions and orders.

Without objection, the chairman may call items in any order most convenient for the dispatch of business.

Chairman Sides opened the public hearing to receive citizen input regarding the proposed text amendments. With no one coming forward to address the Board, Chairman Sides closed the public hearing.

Commissioner Pierce moved approval of the proposed revisions to the Administration Ordinance to include an Announcement section. The motion was seconded by Commissioner Barber and carried unanimously.

Chairman Sides called for a recess at 6:54 p.m.

Chairman Sides reconvened the meeting at 7:05 p.m.

4. PRESENTATION OF FINDINGS FOR INTERNAL INVESTIGATION

Chairman Sides said the Board had assigned Rowan County's Risk Manager, Yvonne Moebs, with the task of conducting a fact finding investigation of alleged excessive unauthorized use of county equipment and supplies for personal use by Commissioner Barber. Chairman Sides said Ms. Moebs now had the results of her investigation to present to the Board.

Ms. Moebs provided the Board with the investigation report. The following is a summary of the findings:

- In 2012, staff in the County Manager's Office (CMO) brought it to the County Manager's attention that a large number of copies were being made by Commissioner Barber for his personal business, Mobile Farm Fresh (MFF). The County Manager took his concerns to the attention of Commissioner Barber, who indicated the copying was related to a food initiative for the benefit of Rowan County. The excessive copying continued and the County Manager took the matter to the Chairman of the Board.
- The Board confronted Commissioner Barber in Closed Session on January 22, 2013 and Commissioner Barber admitted to making the copies. Commissioner Barber apologized to the Board indicating he would not continue the practice. Commissioner Barber issued a check in the amount of \$30 in an attempt to reimburse the County for the copies. (The check was not cashed and was returned to Commissioner Barber).
- Information Systems tracked and identified print jobs from Commissioner Barber's computer as being for MFF. There are other files which Information Systems can identify as having been printed from Commissioner Barber's computer and for which Information Systems will

- maintain. It does appear copies were also made using the regular copy method by placing a document on the copier.
- Comments attributed to Commissioner Barber indicated he may justify his use of county equipment for MFF on the basis he thinks the organization would be beneficial to Rowan County residents. This rationale could be made for any business interest so this justification appears too tenuous to support the use of equipment and supplies as being for Rowan County business. There was no evidence that showed a link to MFF and Commissioner Barber's activities as a County Commissioner. There was no evidence that Commissioner Barber made presentations concerning MFF at Commission Meetings and there was no evidence of any county program involving MFF. There was no evidence of any comments by Commissioner Barber in which he offered a clear explanation as to a direct connection between MFF and the County or his role as a Commissioner.
 - Most print jobs were for MFF and not for a county entity and not for county business.

In conclusion, Ms. Moebis reported that Commissioner Barber used county equipment and supplies for personal usage when making copies of documents relating to MFF.

Ms. Moebis stated it would be up to the Board to determine whether Commissioner Barber's actions constituted a violation of the Code of Ethics adopted by the Board of Commissioners. Similarly, any decision on whether to make a referral to the District Attorney for investigation of possible criminal actions would be up to the Board.

Chairman Sides said once the investigation was concluded, the censure procedures stated it was up to the Board of Commissioners to determine whether any criminal law had been violated and whether to refer the matter to the local district attorney. Secondly, the Board would detail the allegations against Commissioner Barber and at that time, the Board would determine if it planned to set a quasi-judicial public hearing at which all the information would be presented. Chairman Sides said Commissioner Barber would have the opportunity to have a lawyer present who would be able to question anyone involved in the investigation.

Chairman Sides said he felt it imperative the Board to have time to review the material and possibly make a determination at the December 2, 2013 meeting as to whether to proceed with the censure process and how to move forward.

Chairman Sides moved to take the information under advisement and come back prepared on December 2nd, 2013 to decide how the Board would proceed. The motion was seconded by Commissioner Pierce.

Commissioner Barber said the copier issue was nearly a year old and he felt it was “trumped up” because he would “not silently follow along as you run this County into the ground”. Commissioner Barber felt the Board was into force, punishment and bullying. Commissioner Barber confirmed he had made copies for projects that he felt would benefit the County. Commissioner Barber accused the Board of purchasing the Salisbury Mall property at a price of \$3.45 million “out of pure political spite”. Commissioner Barber said he had never accepted a pay raise while serving on the Board, never submitted an expense report and had spent thousands of dollars out of his own pocket.

Upon being put to a vote the motion on the floor passed 4-1 with Commissioner Barber dissenting.

5. DISCUSSION REGARDING DEADLINE FOR CENTRAL OFFICE DISCUSSION

Commissioner Pierce recalled that last month the Rowan County Board of Commissioners (BOC) offered the Board of Education (BOE) five (5) sites suitable for locating a new Rowan Salisbury Schools Central Office. The BOC also agreed to consider alternative sites that might be suggested by the BOE. The offer was made in good faith and the BOE should respond within a reasonable time period.

Commissioner Pierce recommended the BOC approve a deadline of January 6, 2014 for a decision from the BOE regarding approval and financing. The decision is contingent upon the County submitting an application to the Local Government Commission (LGC) for an additional property purchase with only one (1) application to reduce the costs of the application/closing fees.

Commissioner Pierce said if the Board had not received a final location selected from the BOE by January 6, 2014, the offer to finance a central office would be withdrawn.

Commissioner Pierce moved to accept the proposal to set a deadline for January 6, 2013. The motion was seconded by Commissioner Caskey and passed 4-1 with Commissioner Barber dissenting.

ADDITION

5a. RECOMMENDATION FOR LOCATION FOR PROPOSED CENTRAL OFFICE FOR BOARD OF EDUCATION

Board of Education (BOE) Chairman, Dr. Richard Miller, thanked the Board for adding the discussion to the agenda. Dr. Miller said the BOE voted on November 15, 2013 to pursue 329 South Main Street in Salisbury as the site for the proposed central office. Dr. Miller said a second motion was passed to ask the Commissioners for a \$7.3 million appropriation as estimated by the architects. Dr. Miller said the BOE was cognizant of the Commissioners desire to be fiscally responsible and the BOE felt the South Main Street location was the

most fiscally responsible. Dr. Miller said 900 citizens had responded to an online survey regarding site selection and 70% of the responses favored the downtown location. Dr. Miller asked the Board to move expeditiously with the project.

Commissioner Barber moved to grant permission for the BOE to exercise its statutory authority for site selection and the use of their sales tax revenue derived from articles 40 and 42 of funding amount not to exceed \$6 million to proceed with the option presented to the BOC for 329 South Main Street.

There was no second to the motion; however, Commissioner Mitchell said he would second the motion if granted additional time to review the information. Commissioner Mitchell said the Board was only provided the information on Friday and was not given a great deal of time to review the recommendation.

Chairman Sides gaveled Commissioner Barber as he began making comments, which Chairman Sides declared to be out of order. Chairman Sides then stated the motion on the floor died for lack of a second.

Commissioner Caskey moved to delay the issue for two (2) weeks to study the recommendation further and to put the issue on the next agenda. The motion was seconded by Commissioner Mitchell and failed 2-3 with Commissioners Sides, Pierce and Barber dissenting.

Commissioner Pierce moved to take time to study the information. Commissioner Pierce said the amount was over the \$6 million agreed upon by the Commissioners and the Commissioners needed to digest the information and respond back no later than January 6, 2014. Commissioner Caskey seconded and the motion passed 4-1 with Commissioner Barber dissenting.

6. CONSIDER DATE/TIME FOR 2014 BUDGET WORKSESSION

Chairman Sides said staff had suggested including a 2014 budget work session as the last item on the agenda for the February 3, 2014 Board of Commissioners meeting. Staff also suggested a second option, which was to change the starting time of the February 3, 2014 meeting from 3:00 p.m. to earlier in the day. Chairman Sides said the County Manager had estimated he would need approximately two (2) hours to receive direction from the Board regarding the budget.

Commissioner Mitchell moved to schedule the work session for February 3, 2014 and to move the start time for the meeting to 1:00 p.m. The motion was seconded by Commissioner Pierce and passed unanimously.

7. CONSIDER APPROVAL OF BUDGET AMENDMENTS

Chairman Sides said the Finance Director had distributed an additional budget amendment pertaining to the Salisbury Mall purchase for the Board's

consideration. Chairman Sides said the Board would add the budget amendment and vote on it separately.

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

- Finance – To budget additional revenues and expenditure for fees received for Family Consumer Science programs at Cooperative Extension - \$2,575
- Finance – To budget revenues and expenditures for Therapeutic Recreation. Donations were received from Lions Club to pay for program activities for seniors - \$900
- Social Services – Increase expenditures and revenue line items for Child Day Care Subsidy payments based on funding authorizations received from the Division of Child Development for FY 2014 - \$17,207
- Finance – Budget revenues and expenditures for Community Development Block Grant Program for CanAm Yarns Building Reuse project - \$750,000

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

The additional budget amendment was presented as follows:

- Finance – To appropriate funds to cover ten percent (10%) deposit for mall property purchase \$345,000

Commissioner Pierce moved to accept the budget amendment for the mall purchase. The motion was seconded by Commissioner Mitchell and passed 4-1 with Commissioner Barber dissenting.

8. ADJOURNMENT

There being no further business to come before the Board, Commissioner Pierce moved to adjourn at 7:37 p.m. Chairman Sides declared the meeting adjourned.

Respectfully Submitted,

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