

**MINUTES OF THE MEETING OF THE  
ROWAN COUNTY BOARD OF COMMISSIONERS  
July 7, 2014 – 3:00 PM**

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

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

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

Absent: Jon Barber, Member

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

Chairman Sides convened the meeting at 3:00 p.m.

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

**CONSIDER ADDITIONS TO THE AGENDA**

- Commissioner Pierce moved to add a Resolution to the Consent Agenda Requesting Immediate Action by the Local Government Commission in Consideration of Loan Application from Rowan County Government. The motion was seconded by Commissioner Caskey and passed unanimously (4-0).

Chairman Sides announced that Commissioner Barber was travelling and was expected to arrive later in the meeting.

- Commissioner Pierce requested to add a discussion to consider setting a public hearing for a Local Government Commission (LGC) application for August 4, 2014.

Chairman Sides added the issue as agenda item #2a.

## **CONSIDER DELETIONS FROM THE AGENDA**

There were no deletions from the agenda.

## **CONSIDER APPROVAL OF THE AGENDA**

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

## **CONSIDER APPROVAL OF THE MINUTES**

Commissioner Pierce moved, Commissioner Mitchell seconded and the vote to approve the minutes of the June 16, 2014 Commission Meeting passed unanimously (4-0).

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

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

The Consent Agenda consisted of the following:

- A. Approval for Department of Social Services to Apply for First United Church of Christ Grant
- B. Request to Terminate Ambulance Franchise – China Grove Fire Department
- C. Right of Way Agreement with Duke Energy for Gildan Property
- D. Add River Wood Drive to State Secondary Road System for Maintenance
- E. Resolution Requesting Immediate Action By The Local Government Commission In Consideration of Loan Application From Rowan County Government (addition to the Consent Agenda)

## **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:

- Kimberly Brewer spoke in opposition to the coal ash lagoons owned by Duke Energy and discussed the illnesses in the community that she did not feel were coincidences. The Commissioners were encouraged to witness the challenges being faced by the community at Ronald and Joanne Thomas' home, as well as Sherry Gobble's.
- Ronald Thomas spoke regarding concerns with coal ash ponds and the seepage onto his property, as well as into the river. Mr. Thomas said he must purchase his drinking water. The Commissioners were invited to come to the neighborhood to see the impacts on the community.
- Sherry Gobble said her well water had been contaminated and that her land backed up to one of Duke Energy's coal ash ponds. Ms. Gobble invited the Board to visit her property to see firsthand what her family was dealing with. Ms. Gobble said her family is unable to bathe in or drink the water on her property and she appealed to the Board for help.

- Joann Stewart said she was proud to be a Rowan County citizen despite numerous actions by the Board. Ms. Stewart spoke in support of La Resistance, Rowan Alliance, Southern Initiatives, Fix Rowan and the NAACP.
- William Peoples spoke regarding the Board's representation of the community. Mr. Peoples said the people in the community suffer as a result of Malcolm "Mac" Butner's comments (Facebook postings) and the divisiveness those comments created. Mr. Peoples said Mr. Butner should resign from the Housing Authority Board without being asked to.
- Scott Teamer, President of the local NAACP, addressed the comments made by Malcolm "Mac" Butner via social media. Mr. Teamer felt the Commissioners should not have to wait on a HUD investigation and that if the BOC did not take action it would demonstrate racism was alive and well in Rowan County.
- Larry Wright discussed the departure of Salisbury's City Manager, as well as Salisbury's Public Information Officer (PIO). Mr. Wright found it insulting the City Manager and PIO were paid a severance package and more insulting that the City Council did not know anything. Mr. Wright wondered about the lack of questioning by La Resistance of the City Manager and PIO scandal. Mr. Wright expressed hope the SBI would get involved.
- Will McCubbins spoke regarding government bigotry against its citizens. Mr. McCubbins said there was a sign on the door prohibiting the carrying of firearms into the building. Mr. McCubbins encouraged the Board to move forward with the adoption of the ordinance allowing citizens to carry firearms into public buildings.

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

### **ADDITION**

#### **2a. CONSIDER SETTING A PUBLIC HEARING FOR A LOCAL GOVERNMENT COMMISSION (LGC) APPLICATION**

Commissioner Pierce moved to set a public hearing for August 4, 2014. Commissioner Pierce said he would like to add the following guidelines: Each person would be allowed to speak three (3) minutes, the sign up sheet would be provided to all prior to the public hearing, and all would be allowed to speak. Commissioner Pierce went on to add that the rules of decorum for the meeting would be no sighs, no clapping, and no open comments from the audience while the hearing was in progress. Commissioner Caskey seconded and the motion passed unanimously (4-0).

#### **3. QUASI-JUDICIAL HEARING FOR AMENDING CUP 14-99**

Chairman Sides read the Chairman's Speech (Exhibit A) and declared the public hearing for CUP 14-99 to be in session. Chairman Sides said the hearing would

focus on an application submitted by Rowan County Power LLC to construct a 15,000 square foot warehouse facility on Tax Parcel 822-007 located at 5755 NC Highway 801.

The Clerk swore in those wishing to provide testimony in the case.

Senior Planner Shane Stewart presented the Staff Report (Exhibit B). Mr. Stewart also provided a power point presentation (Exhibit C) to depict the site and surrounding areas.

Mr. Stewart explained that on August 17, 1999, the Board of Commissioners approved a conditional use permit (CUP 14-99) for Carolina Power & Light, a division of Progress Energy. The CUP allowed for the construction of an electrical power generation facility at 5755 NC 801 Highway further referenced as Tax Parcel 822-007. The plans were subsequently modified on December 3, 2001 to accommodate two (2) steam turbines and other site plan changes.

Mr. Stewart reported the current property owner, Rowan County Power LLC, was proposing a 15,000 square foot warehouse/administration facility within their existing developed area, which requires an amendment of the CUP.

After reviewing the conditional use requirements and the evaluation criteria contained in the Staff Report (Exhibit B), Mr. Stewart said the addition of the new warehouse would not be visible to adjoining properties based on the sites near the 370 acre size, which contained a heavily wooded perimeter.

Mr. Stewart provided the Board with example Findings of Fact (Exhibit D).

With no one else wishing to provide testimony in the case, Chairman Sides closed the public hearing.

Commissioner Mitchell moved that the development of the property in accordance with the proposed conditions will not materially endanger the public health or safety.

FACT: Adhering to the approved NCDOT commercial driveway permit suggests this site will provide safe access to the general public and not adversely impact traffic along NC 801 Hwy.

FACT: Planning Staff's report indicates the estimated road capacity compared to traffic volume suggests the road operates well under its design capacity.

FACT: Building plans have been approved by the Codes Enforcement Department for warehouse occupancy, which is classified as S-2, Low Hazard Storage.

The motion was seconded by Commissioner Pierce and passed unanimously (4-0).

Commissioner Mitchell moved that the development of the property in accordance with the proposed conditions will not substantially injure the value of adjoining or abutting property, or that the development is a public necessity.

FACT: No material evidence was presented suggesting this request would injure property values.

The motion was seconded by Commissioner Pierce and passed unanimously.

Commissioner Mitchell moved that the location and character of the development in accordance with the proposed conditions will be in general harmony with the area in which it is located and in general conformity with any adopted county plans.

FACT: The application complies with all six specific criteria identified in section 21-60 (4)(a) of the zoning ordinance for electrical power generating uses.

FACT: According to the proposed site plan and GIS map, the warehouse facility will not be visible to adjoining properties or passersby.

FACT: During the initial approval in 1999 and subsequent expansion in 2001, the Board of Commissioners determined the development was in general harmony with the area.

FACT: This property is located within a Commercial / Industrial Area and the Highway Corridor Overlay identified by the Western Rowan Land Use Plan.

The motion was seconded by Commissioner Pierce and passed unanimously (4-0).

Commissioner Mitchell moved approval of CUP 14-99 amendment with any staff restrictions. The motion was seconded by Commissioner Pierce and carried unanimously (4-0).

#### **4. CONSIDER APPROVAL OF PERMIT TO EXCEED 03-14**

Rowan County Planner Franklin Gover reported the first Rowan Chamber Dragon Boat Festival was set for August 2, 2014 at the Shrine Club on High Rock Lake. Mr. Gover said the races were part of a day-long lakeside festival that would raise money for small business programs in the County. The applicant expects the festival to attract around 800 people, with the possibility of teams traveling from the Charlotte and Raleigh areas.

Mr. Gover said Section 14.12 of the ordinance provided an opportunity to exceed the amplified sound standards in the form of a “permit to exceed” when an event was open to the public.

Mr. Gover said Staff recommended approval based on the review of the application against the criteria provided in Section 14.12(c).

Chairman Sides opened the floor for anyone wishing to address the Board regarding the request; however, no citizens came forward.

Commissioner Mitchell moved, Commissioner Pierce seconded and the vote to approve PE 03-14 based on the criteria contained in the staff report passed unanimously (4-0).

## **5. CONSIDER REQUEST TO PURCHASE PROPERTY AT 418 S. CAROLINA AVENUE IN SPENCER**

Chairman Sides referred to the offer in the agenda packet for the purchase of property located at 418 S. Carolina Avenue in Spencer for \$50,000. Chairman Sides explained that the County did not currently own the property but rather had sold the property to the Col. Abram Penn Veteran’s Foundation (Foundation) for \$50,000 with a requirement the home must be used to house veterans. The Foundation paid a \$5,000 deposit for the property to be transferred. Chairman Sides said the plans to house veterans fell through shortly after the sale because the Town of Spencer issued the zoning permit for the group home erroneously and subsequently revoked the permit.

Chairman Sides said Mr. Adams wished to now purchase the home as his private residence; however, the contract with the Foundation stated if the home was not used for the intended purpose, it would revert back to county. Chairman Sides stated Mr. Adams also wanted to be reimbursed for costs incurred for the renovations that had taken place.

In response to an inquiry from Chairman Sides, County Attorney Jay Dees said the plans for the veterans’ home would not come to fruition and that Mr. Adams had raised questions about reimbursement for the expenses for renovations. Mr. Dees said he had advised Mr. Adams that reimbursement for anything over the \$5,000 down payment would need to come before Board. Mr. Dees position was that improvements were made at their risk based on the proposed use. Mr. Dees said the property must be transferred back to the County before it could be offered for sale. Mr. Dees said the Board could then determine whether to accept the offer for \$50,000 and advertise the property for upset bids.

Chairman Sides said staff from the Tax Administrator’s Office had visited the site and assessed the home to be worth \$85,600. Chairman Sides said he did not feel an obligation to reimburse Mr. Adams for expenses nor the \$5,000 deposit. Chairman Sides said the County had done its part to make the project work as a

home for veterans. Chairman Sides was willing for the property to revert back to the County, hold the \$5,000 in escrow and sell the property through the upset bid process. Chairman Sides said if Mr. Adams was the successful bidder, the \$5,000 could be applied to the purchase.

Chairman Sides inquired as to what costs would be involved in transferring the property back to the County and Mr. Dees responded the costs would be minimal with the preparation and recording of the deed.

Commissioner Mitchell said the County must go through the upset bid process and if Mr. Adams was successful or not, he had no problem giving back the \$5,000. Commissioner Mitchell said as far as the upgrades, he understood Mr. Adams was told he would not be reimbursed for the upgrades. Commissioner Mitchell said that before he could agree to any reimbursement on the upgrades, he would have to see what improvements were made and the cost. Commissioner Mitchell did not have a problem reimbursing the \$5,000 since the intended project did not continue. Commissioner Mitchell said at the proper time, he was willing to declare the property as surplus and sell through the upset bid process.

Chairman Sides asked if the \$5,000 check was paid by an individual or through the non-profit corporation. Mr. Dees responded that it was paid through the Foundation. Chairman Sides said he had a problem refunding the money to an individual and felt the money would have to be refunded back to the Foundation.

Chairman Sides allowed Mr. Adams to come forward to speak.

Mr. Adams said he was formerly a part of the Foundation and had specifically made the \$5,000 donation. Mr. Adams said prior to signing, the Foundation went through the Spencer Zoning process and the house was zoned and approved as a group home. Mr. Adams said the process was then begun to fix the house, as it was in need of repairs. Mr. Adams said approximately one month after the paperwork was signed, Price Wagoner, Zoning Administrator for Spencer, contacted him to let him know there was a zoning issue and the permit would have to be rescinded.

Mr. Adams said since all of the steps had been followed on the front end, the Foundation had felt it would be able to carry out the intent to house veterans.

Mr. Adams said he had been in contact with Mr. Dees to figure out the best strategy at this point. Mr. Adams said the home would not be able to be rezoned for a group home. Mr. Adams said he had since stepped down from the Foundation and was now an individual who had money tied up in the home. Mr. Adams said his family had grown to love the house and since it was not going to be able to be used for its intended purpose, he would like the opportunity to finish the process and bring the home to its former glory as a personal residence.

Chairman Sides said the County would be unable to deal with an individual, even if the individual had made the contribution. Chairman Sides said it would then be up to the Foundation to refund the money back to Mr. Adams.

Mr. Adams said he had been told if he could prove the money had come from him that it would be a consideration to refund the money back to him.

Chairman Sides asked Mr. Dees if the County could make the decision and Mr. Dees responded that there may be a problem with the Secretary of State's Office regarding the Foundation. Mr. Dees said the purchaser was the Foundation and anything the County did would have to be directed to the Foundation.

Chairman Sides moved to request Mr. Dees begin the process with the Foundation to receive the house and repay the \$5,000 and at that point in time, declare the property as surplus. Commissioner Pierce seconded the motion.

Mr. Page inquired if the price would be set at \$85,600 with Chairman Sides agreeing, but stating that could not be decided until the property was valued.

Commissioner Caskey asked for Mr. Adams to provide a detailed list of the upgrades that had been done, including the costs.

Commissioner Pierce asked Mr. Adams if this was the only piece of property he owned and Mr. Adams responded that it was not.

Commissioner Pierce inquired as to why Mr. Adams would continue to invest money in a piece of property knowing the permit had been revoked and the home could not be used to house veterans.

Mr. Adams said he had not been involved in the protest or the meetings dealing with the neighborhood. Mr. Adams said his contact with Price Wagoner indicated the Spencer Town Board would have to vote on the permit. Mr. Adams said when the Foundation received word that the permit would not be granted, the Foundation began working with the State and Veterans Administration (VA) trying to determine how to move forward.

Commissioner Pierce said his question still remained. If the house could not be used for its intended purpose, why would money continue to be invested in something that might not come to fruition.

Mr. Adams stated the Foundation believed it would happen; however, in hindsight, he could see that it would not. Mr. Adams said getting the license through the State and approved through the VA as a home, was to be separate from the zoning from the Town of Spencer. Mr. Adams stated that was why they continued to move forward and believed it would transpire.

Commissioner Pierce said the County never had a contract with Mr. Adams personally, but rather with the Foundation. Commissioner Pierce said Mr. Adams should look at the Foundation for reimbursement of the money he personally spent. Commissioner Pierce asked how Mr. Adams could hold the County liable for the expenses if the Foundation was dealing with everyone but the County. Mr. Adams responded the Foundation felt going into the project, it would fulfill the contract with the Commissioners to use the house as a home for veterans. Mr. Adams said the Foundation went forward in good faith to fulfill the contract and felt their feet were cut out from underneath.

Mr. Page said he would like to make sure Mr. Adams understood the process now. Mr. Page said the County would initiate the clawback provision, giving the \$5,000 back to the Foundation. Mr. Page said if the Foundation chose, they could give Mr. Adams back his donation. Mr. Page said the County was setting the price at \$85,600 and Mr. Adams could make an offer to purchase the home at that price, which would start the upset bid process.

Chairman Sides said the County had the right to set a minimum price and the price would be \$85,600. Chairman Sides explained that when the property was sold to the Foundation, it was because the County wanted to help veterans, which was the reason the price on the property had been reduced. Chairman Sides went on to say the County could not take taxpayers property and sell it for one-third of the tax value for a personal reason.

Mr. Adams asked if the upgrades on the property could be used as credit on the price and Chairman Sides said not in his opinion.

Commissioners Caskey and Mitchell said they would like to see a list of the upgrades in writing, prior to making a decision.

Chairman Sides stated the motion on the floor was to request that the County Attorney begin the process of regaining the property from the Foundation and reimbursing the Foundation for the \$5,000.

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

## **6. SELECTION OF VOTING DELEGATE FOR NCACC ANNUAL CONFERENCE**

Chairman Sides said the Board was asked to select a voting delegate for the North Carolina Association of County Commissioners (NCACC) Conference scheduled for August 14-17, 2014. Chairman Sides said Commissioner Caskey and County Manager Gary Page were planning to attend the Conference; however, Commissioner Caskey was unable to stay for the NCACC Business meeting.

Commissioner Pierce moved, Commissioner Mitchell seconded and the vote to select Gary Page as the Rowan County voting delegate passed unanimously.

**7. CONSIDER APPROVAL OF BOARD APPOINTMENTS**  
**NURSING HOME ADVISORY COMMITTEE**

There are two (2) vacancies and the following applications were received:

- Julian Aldis Torrey
- Sylvia Darlean Fosha

The terms are for one (1) year beginning July 1, 2014 and expiring June 30, 2015.

Commissioner Mitchell nominated Julian Torrey and Sylvia Fosha and the nomination passed unanimously (4-0).

**ADULT CARE HOME ADVISORY COMMITTEE**

There are ten (10) vacancies and the following application was received:

- Carol Ann Cody

The term is for three (3) years beginning July 1, 2014 and expiring June 30, 2017.

Commissioner Mitchell nominated Carol Ann Cody and the nomination passed unanimously (4-0).

**CENTRALINA WORKFORCE DEVELOPMENT BOARD**

Pamela Orbison was appointed to this Board at the June 2, 2014 meeting. Due to federal mandates, the member appointed to the vacancy must work in the private sector. Ms. Orbison's employment with the school system does not allow her to serve on this Board in the required capacity.

- Bethanne Mascilak has submitted an application for consideration. Please note that Ms. Mascilak does not reside in Rowan County but has recruiting responsibilities for Novant Health Rowan Medical Center.

The term is for two (2) years beginning July 1, 2014 and expiring June 30, 2016.

Commissioner Pierce nominated Bethanne Mascilak and the nomination passed unanimously (4-0).

**SALISBURY-ROWAN COMMUNITY ACTION AGENCY**

- Jeffrey Douglas Jahnke has submitted an application for reappointment as an At-Large representative.

The term is for two (2) years beginning August 1, 2014 and expiring July 31, 2016.

Commissioner Pierce nominated Jeffrey Jahnke. The nomination passed unanimously (4-0).

### **ROWAN COUNTY JUVENILE CRIME PREVENTION COUNCIL**

There are six (6) vacancies. The following applications were received for consideration:

- Brandon Scott Linn – At Large
- John Spidell – reappointment as At Large
- Bob Lippard - reappointment as United Way representative
- Rory Collins – reappointment as Chief of Police

In order to reappoint Mr. Spidell, Mr. Lippard and Chief Rory Collins, the Board would need to waive the term limits set forth in the Resolution adopted September 17, 2012.

NCGS §143B-846 states that members of the Juvenile Crime Prevention Council, if possible, should represent the United Way and a chief of police.

The terms are for two (2) years beginning July 1, 2014 and expiring June 30, 2016.

Chairman Sides moved to waive term limits for John Spidell, Bob Lippard, and Rory Collins. Commissioner Mitchell seconded and the motion passed unanimously (4-0).

Commissioner Mitchell nominated Brandon Linn, John Spidell, Bob Lippard, and Rory Collins. The nominations passed unanimously (4-0).

### **THERAPEUTIC RECREATION BOARD**

There are two (2) vacancies and the following application was received:

- Carol Ann Hylton for reappointment

The term is for three (3) years beginning August 1, 2014 and expiring July 31, 2017.

Commissioner Mitchell nominated Carol Ann Hylton and the nomination carried unanimously (4-0).

### **ROWAN TRANSIT SYSTEM**

- William Feather has submitted his application for reappointment representing a government official.

The term is for three (3) years beginning July 1, 2014 and expiring June 30, 2017.

Commissioner Mitchell nominated William Feather and the nomination carried unanimously (4-0).

#### **TOURISM DEVELOPMENT AUTHORITY**

There are four (4) vacancies and applications were received from the following:

- Daniel Willis Peters for reappointment - Interest in Tourism
- Amie Morgan Baudoin for reappointment – Representative of a Site
- Darrell Blackwelder – Interest in Tourism
- Vivian Pennington Hopkins – Representative of a Site

The terms are for two (2) years beginning August 1, 2014 and expiring July 31, 2016.

Commissioner Mitchell nominated Daniel Peters, Amie Baudoin, Darrell Blackwelder, and Vivian Hopkins and the nominations passed unanimously (4-0).

#### **REGION F AGING ADVISORY COMMITTEE**

At the June 2, 2014 meeting, Barbara Gaul submitted an application to serve as an alternate. Since that time, Ms. Gaul has learned she was eligible to be reappointed as a delegate and is now requesting the reappointment. The term is the same two (2) year term limit beginning July 1, 2014 and expiring June 30, 2016.

Commissioner Pierce moved to nominate Barbara Gaul for reappointment as a delegate. The nomination passed unanimously (4-0).

#### **EAST GOLD HILL VFD FIRE COMMISSIONER**

There are two (2) vacancies and the following submitted applications:

- Gary W. Russell
- Jerry Ray Hill
- Tony Eugene Trexler

The terms are for two (2) years beginning August 1, 2014 and expiring July 31, 2016.

Commissioner Pierce nominated Jerry Hill and Tony Trexler. The nominations passed unanimously (4-0).

#### **LOCKE VFD FIRE COMMISSIONER**

There is one (1) vacancy and the following application was received:

- Robert Talbott Himes

The term is for two (2) years beginning July 1, 2014 and expiring June 30, 2016.

Commissioner Pierce nominated Robert Himes and the nomination passed unanimously (4-0).

## **CITY OF KANNAPOLIS ETJ**

- Leonard R. Beaver submitted an application to be a member representing the ETJ on the City of Kannapolis Planning and Zoning Commission.

The term is for three (3) years, expiring June 30, 2017.

Commissioner Mitchell nominated Leonard Beaver and the nomination carried unanimously (4-0).

### **8. CLOSED SESSION**

Commissioner Pierce moved the Board enter into Closed Session at 4:07 p.m. in accordance with North Carolina General Statute § 143-318.11(a)(1) to consider approval of the June 16, 2014 Closed Session minutes and North Carolina General Statute §143-318.11(a)(6) for a personnel matter. The motion was seconded by Commissioner Mitchell and passed unanimously (4-0).

Chairman Sides called for a recess at 4:07 p.m. and the Board therefore officially entered Closed Session at 4:20 p.m.

The Board returned to Open Session at 5:03 p.m.

Commissioner Mitchell moved to request the County Manager investigate with the Director of the local Housing Authority and State HUD officials regarding the recent allegations that have come forth on a board member and that the report needed to done no later than August 4, at which time the BOC would take formal action. The motion was seconded by Commissioner Caskey.

Commissioner Pierce said the comments that had been made via social media did not in any way reflect the attitude or opinion of the Board of Commissioners and the Board did not condone the comments.

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

### **9. ADJOURNMENT**

There being no further business to come before the Board, Commissioner Pierce moved to adjourn at 5:05 pm. The motion was seconded by Commissioner Mitchell and passed unanimously (4-0).

Respectfully Submitted,

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