

**MINUTES OF THE MEETING OF THE  
ROWAN COUNTY BOARD OF COMMISSIONERS  
July 5, 2011 – 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.

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

Chairman Mitchell called for a moment of silence in memory of former County Commissioner Wilborn "Bill" Swaim. Mr. Swaim passed away on June 19, 2011.

**CONSIDER APPROVAL OF THE MINUTES**

Commissioner Sides moved, Commissioner Barber seconded and the vote to approve the minutes of the June 20, 2011 Special Meeting and the June 20, 2011 Commission Meeting passed unanimously.

**CONSIDER ADDITIONS TO THE AGENDA**

Commissioner Coltrain moved to add a discussion regarding a request from the Economic Development Commission. The motion was seconded by Commissioner Barber and passed unanimously.

Chairman Mitchell added the issue as agenda item #8b.

Commissioner Coltrain moved to add a request from Fire Marshal Tom Murphy concerning the use of pyrotechnics for fireworks display at Tamarac Marina. The motion was seconded by Commissioner Barber and passed unanimously.

Chairman Mitchell added the issue as agenda item #8c.

**CONSIDER DELETIONS FROM THE AGENDA**

There were no deletions from the agenda.

**CONSIDER APPROVAL OF THE AGENDA**

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

**1. CONSIDER APPROVAL OF CONSENT AGENDA**

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

The Consent Agenda consisted of the following:

- A. Set Public Hearing for August 1, 2011 for Proposed Road Name of Indian Trail
- B. Final Approval of Offer to Sell Sloan Park House

**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:

- Commissioner Jim Sides said he wished to address the Board as a citizen and not as a Commissioner concerning the County's budget. Mr. Sides discussed the revenue neutral tax rate. Mr. Sides said ultimately the budget belonged to the taxpayers of Rowan County and the taxpayers would have to provide the funds to make the budget whole. Mr. Sides felt several commissioners had presented ideas for a budget that would require no tax increase. Commissioner Sides felt the budget that had been approved put the wants of a number of special interest groups before the needs of the people.

The next two (2) citizens signed up to speak during Public Comment indicated their subject matter would be the Motion to Dismiss CUP 02-10 (current agenda item #7); therefore, Chairman Mitchell deferred to Attorney Anthony Fox as to the appropriate time to allow for their comments.

Mr. Fox responded that the discussion for agenda item #7 was not designed to allow anyone other than the interested parties the opportunity to speak. Mr. Fox said the interested parties in the matter would be the Citizens Group, which was represented by Attorney Randy Reamer; the applicant/owner, which was represented by Stephen Holton.

- Marian Rollans spoke in support of the Motion to Dismiss CUP 02-10.

- James Rollans came forward with a model of a tower and as he began speaking, Attorney Stephen Holton entered an objection to the presentation. Mr. Holton felt the presentation would contaminate the Commissioners' opinion prior to the actual quasi-judicial hearing. Mr. Holton said while the public had the right to comment, the comments were getting into the area of the issue of the Motion to Dismiss, which was to be discussed later in the meeting.

Mr. Fox responded that the nature of the motion was on the specific issue of whether or not the application should be denied because it presented the same facts previously decided by the Board. Mr. Fox said the Public Comment Period was designed to allow citizens to have input on processes and issues before the Board. Mr. Fox advised the public to avoid getting into the merits of the case. Mr. Fox said the public had the right to be heard on the Motion in general. Mr. Fox also asked the Board to divorce itself from any theories or arguments relating to the merits of the case. Mr. Fox stressed that the Board would need to make its' decision solely upon evidence if the matter reached the point of a quasi-judicial proceeding. Mr. Fox said since the tower model (presented by Mr. Rollans) was illustrative of the issue of whether or not there was a material change in one application to another, he felt the public comments were acceptable but should certainly not go any further.

Mr. Rollans continued by saying he wanted to share what he had learned from reading transcripts through the use of the tower model. Using the tower model, Mr. Rollans discussed the previous 2005 broadcast tower request compared to the height of the current request.

- Russell Pruett spoke in support of the Motion to Dismiss CUP 02-10.

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

At this point in the meeting, Chairman Mitchell recognized Representatives Fred Steen and Harry Warren in the audience.

### **3. PUBLIC HEARING FOR PROPOSED ROAD NAME OF OLIPHANT LANE**

Senior Planner Shane Stewart said Staff had contacted the property owners along a road currently unnamed and located east off the 100 block of Dexter Avenue. Mr. Stewart said a valid petition was submitted with four of six property owners' signatures. Staff recommended approval of the road name.

Chairman Mitchell opened the public hearing to receive citizen input for the proposed road name of Oliphant Lane. With no one wishing to address the Board, Chairman Mitchell closed the public hearing.

Commissioner Sides moved, Commissioner Coltrain seconded and the vote to approve the name of Oliphant Lane passed unanimously.

#### **4. PUBLIC HEARING FOR PROPOSED ROAD NAME OF MIDDLE ROAD**

Senior Planner Shane Stewart reported that a road currently known as Middle Road located north off the 200 block of Woodbury Drive was never officially named. Mr. Stewart said the name of Middle Road had been used; however, it was never officially recorded within county road files.

Mr. Stewart said property owners along the road were contacted and given the choice to give the road a name other than Middle Road. There were no responses; therefore, Staff recommended approval of the road name.

Chairman Mitchell opened the public hearing to receive citizen input for the proposed road name of Middle Road. With no one wishing to address the Board, Chairman Mitchell closed the public hearing.

Commissioner Sides moved, Commissioner Coltrain seconded and the vote to approve the name of Middle Road Lane passed unanimously.

#### **5. PUBLIC HEARING FOR PROPOSED ROAD NAME OF LODGE TRAIL**

Senior Planner Shane Stewart reported that Staff was notified by E-911 personnel that a road currently unnamed and located south off the 6300 block of Long Ferry Road exceeded the number of structure criteria for naming. Mr. Stewart said there were five (5) structures located along the road with three (3) of them belonging to civic organizations. Mr. Stewart said Staff provided the property owners along the road with the opportunity for input into naming the road. No responses were received and Staff recommended approval of the proposed name of Lodge Trail.

Chairman Mitchell opened the public hearing to receive citizen input for the proposed road name of Lodge Trail. With no one wishing to address the Board, Chairman Mitchell closed the public hearing.

Commissioner Barber moved, Commissioner Coltrain seconded and the vote to approve the name of Lodge Trail passed unanimously.

#### **6. QUASI-JUDICIAL HEARING FOR CUP 16-04 AMENDMENT**

Chairman Mitchell read the Chairman's Speech (Exhibit A) and declared the public hearing for CUP 16-04 Amendment to be in session. Chairman Mitchell said the hearing would focus on an application submitted by Aaron Martin for his property located at 5130 US Highway 601. Chairman Mitchell said the purpose of the application was to amend an existing conditional use district (CUD) to allow a 3,288 square foot tire shop and minor automotive repair business on Tax Parcels 310-098 and 297.

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

Senior Planner Shane Stewart presented the Staff Report (Exhibit B) and also provided a power point presentation (Exhibit C).

Using the power point presentation (Exhibit C) Mr. Stewart recalled in November 2004, the Board approved a request from Aaron Martin to rezone 3 ½ acres located at the corner of US Highway 601 and Cauble Road from Rural Residential (RR) to Commercial, Business, Industrial (CBI) with an accompanying CBI-CUD to accommodate a retail sales operation of primitive furniture, buildings, crafts and similar items. In April 2007, Mr. Martin received approval to amend his site plan for additional display area and construction of an additional building for the retail operation.

Mr. Stewart said Mr. Martin had since ceased operation of the furniture/craft business and would like to operate a “new and used” tire shop and perform minor automotive repairs in a new 3,000 square foot four-bay building indicated on Attachment A. According to Mr. Martin, the repairs would not include engine, transmission, drivetrain, and other more intensive activities.

Mr. Stewart said the Board might wish to consider the following conditions:

1. Combine Tax Parcels 310-098 and 297
2. All tires must be stored within an enclosed building
3. No junked motor vehicles may be left outside an enclosed building

Mr. Stewart stated there was a Checklist in the Staff Report (Exhibit B) the Board might wish to use as it considered the request. Mr. Stewart also distributed sample Findings of Fact (Exhibit D) to the Board.

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

Commissioner Sides moved approval of the required findings as follows:

1. The development of the property in accordance with the proposed conditions will not materially endanger the public health or safety.
2. 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, and;
3. 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.

The motion was seconded by Commissioner Coltrain and passed unanimously.

Commissioner Sides moved to approve the CUP 16-04 Amendment, with the proposed three (3) conditions as suggested by Staff. Commissioner Barber seconded and the vote passed unanimously.

## **7. CONSIDER CITIZENS GROUP MOTION TO DISMISS CUP 02-10**

Attorney Anthony Fox said a motion had been filed for the Citizens Group by Attorneys Carlyle Sherrill and Randy Reamer, challenging the application of the owner and Davidson County Broadcasting, Inc. (DCBI) CUP 02-10 as being inappropriate and barred by principles of collateral estoppel and res judicata. Mr. Fox explained that both sides had been informed they would have the opportunity to present arguments for and against the motion. Mr. Fox said it was agreed that both parties would limit their presentations to no more than 20 minutes for each side. Mr. Fox said he would also have comments following the conclusion of the arguments, as to the arguments that might be presented by the Board.

Mr. Reamer provided the Board with two (2) handouts and explained that he and Mr. Sherrill represented the Citizens Group. Mr. Reamer said the purpose of the motion was to let the Board know there were legal theories available that would allow the Board to dismiss the application now, without conducting a lengthy hearing regarding matters that had already been discussed and decided.

Mr. Reamer argued from the outline he provided and highlighted the following points:

- I. Motions to dismiss allow for early determination of the legal sustainability of issues before expending the time and expense of further proceedings.
- II. Res judicata and collateral estoppel allow for dismissal of claims and issues that have already been decided.
- III. The principals of res judicata and collateral estoppel apply in quasi judicial proceedings.
- IV. Res judicata and collateral estoppel apply in this case.
- V. Additional thoughts of interest

Mr. Reamer referred to Exhibit B of the handout and said it was important in that it stated the factual background from the 2005 case.

Mr. Reamer referred to Exhibit D of the handout, which was the Board's decision from 2005.

Mr. Sherrill read finding of fact #22 in Exhibit D of the handout and also from the 2005 transcript concerning Captain John Cox's testimony in regards to tower height and air safety.

Mr. Reamer said Exhibit E of the handout was a copy of the superior court's decision in the prior case; Exhibit F was the decision of the North Carolina Court of Appeals; Exhibit G was the ruling of the North Carolina Supreme Court.

Mr. Reamer said Exhibit H was the testimony from the seven (7) pilots who previously testified in 2005 that the proposed tower was too high and should be no more than 700 feet.

Mr. Reamer asked the Board to seriously consider the Motion to Dismiss and he said the exhibits, along with the memorandum he had distributed should make it clear that the Citizens Group's position was sustainable.

Mr. Holton said he was the attorney for DCBI and for the Parkers, who are the applicants. Mr. Holton said he was in opposition to the Motion to Dismiss. Mr. Holton distributed a memorandum to the Board and he also stated that Mr. Hilton was in attendance and may briefly address the Board.

Mr. Holton referred to the memorandum of opposition to the motion to dismiss and said the Movants in the case did not have the right to submit the pleadings. Mr. Holton felt it was not right for the Board to consider the Motion to Dismiss at this time. Mr. Holton said the Citizens Group and all others had the right to attend the public hearing and enter their objections on August 1<sup>st</sup>. Mr. Holton expressed concern that the Citizens Group was attempting to make itself a party to the application. Mr. Holton said the County's ordinance and basic zoning law allowed for one party to the action, which was the applicants (the Parkers). Mr. Holton said the Motion to Dismiss was based on the misguided proposition that the application must be rejected on the grounds of res judicata or collateral estoppel. Mr. Holton said if the current application was identical to the previous application, it would apply; however, in this case the application was new and the County's ordinance allowed for the resubmission of a conditional use permit after one (1) year.

Mr. Holton explained several of the changes for the current application as follows:

- New applicants that include Maurice Parker and Mary Parker; the land mass has increased
- The site plan is new
- New fall zone
- Setbacks have increased for safety purposes
- Tower engineering is different and the design of the tower is new
- Six (6) bays instead of seven (7)
- Decrease in tower height to 1200'

Mr. Holton referred to the previous testimony mentioned by Mr. Reamer and Mr. Sherrill. Mr. Holton said the Board of Commissioners had found that the tower at 1,350' was a hazard and there had been no conclusions of law or findings of fact

that a lower tower height was a hazard issue. Mr. Holton said the findings strictly dealt with a tower height of 1,350'.

Mr. Holton said if allowed to proceed, the tower height of 1,200' would be substantially different.

Mr. Holton stated that when speaking of the five-mile radius, the County's own public airport did not require this limitation. Mr. Holton said there was a new determination of no hazard that he contended would take into consideration Miller Air Park. Mr. Holton said there was new evidence that would be submitted to the Board that the NC Department of Aviation (DOA) acknowledged that the FAA was the controlling authority as it related to air safety and navigation within the air. Mr. Holton also submitted that the testimony of Marshall Sanders, which appeared to be a key piece of testimony, was not acting on behalf of the NC DOT at the time he testified.

Mr. Holton asked Mr. Hilton to speak as part of the applicants and Mr. Fox said at this point, the argument was being made regarding res judicata and collateral estoppel. Mr. Holton responded that Mr. Hilton would not be arguing the motion. Mr. Holton said he understood he had twenty (20) minutes to present the case and if Mr. Hilton would not be allowed to speak, he would like to enter an objection.

Mr. Fox responded that if Mr. Hilton would add to the argument and the position in opposition to the Motion to Dismiss, it would be Mr. Holton's call whether to allow Mr. Hilton to speak.

Mr. Hilton said it had been six (6) months since he had filed the application and that he had worked with the Planning and Development Department during this time. Mr. Hilton said the Planning and Development Director, Ed Muire, had said Mr. Hilton had the right to make the application under the code, and that the application was being reviewed as a completely new application. Mr. Hilton said while the issues were similar, the information was new and more detailed. Mr. Hilton said he and his partners found the efforts by the Citizens Group as basically taking away his right to be heard.

Mr. Holton referred to a second handout he had provided the Board, which was a Court of Appeals case between Theodore Barris and wife, and the Town of Long Beach. Mr. Holton said the case basically stood for the point that under North Carolina law, the Board must first examine the application, hear the evidence and decipher what changed circumstances exist. Mr. Holton said to simply rule at this point unilaterally would be an injustice and everyone wanted to be heard.

Mr. Holton respectfully requested that the Board reject the motion at this time and allow DCBI and the Parkers to move forward with their application on August 1<sup>st</sup>.



Mr. Reamer, who had reserved two (2) minutes of his allotted time for rebuttal, stated that the applicant had been trying for ten (10) years to get the tower sited in Rowan County. Mr. Reamer said the application had been turned down in Iredell County, as well. Mr. Reamer said he did not object to the right to reapply, as the ordinance gave the right to reapply. Mr. Reamer said DCBI must reapply with a substantially different application. Mr. Reamer felt there were no substantial differences in the application before the Board and the application that was previously before the Board. Mr. Reamer said the only possible substantial difference was the 150' in tower height. Mr. Reamer felt 150' was inconsequential as to the safety issue. Mr. Reamer said, "In their own brief they acknowledge that res judicata and collateral estoppel are valid legal principles that could be troublesome." Mr. Reamer said, "They also acknowledge on page 3 of their brief that it's not an exact same application that is necessary, it is a substantially similar application and that is what we are dealing with here." Mr. Reamer said, "They also raise an issue about the time limits of this motion and whether we're a proper party." Mr. Reamer submitted that the Citizens Group was a proper party and that the Board need look no further than the Court of Appeals decision, which made the Citizens Group a party. Mr. Reamer contended the Citizens Group was still a party as the issues were the same.

Mr. Fox advised the Board that it should weigh the evidence that had been presented by both the Citizens Group and the owner/applicant. Mr. Fox explained that the first question was whether the principles of res judicata applied to quasi judicial proceedings of the Board. Mr. Fox felt the law in this case suggested it did apply. Mr. Fox said the principle of res judicata was something that barred a hearing of the same matter again – a second time – after the matter had ultimately been decided. Mr. Fox said the Board was asked if the application before the Board was identical in terms of parties, identical in terms of the issues presented in the application. Mr. Fox said the Board was asked to consider if the differences were not the same, were the differences material. Mr. Fox said the Board heard evidence that the parties were different and the next question was whether the application was the same in 2010 as in 2005. Mr. Fox highlighted the differences in the application.

Mr. Fox distributed three (3) handouts to the Board and said at this point, the Board must determine whether it believed the principle of res judicata applied to the application, CUP 02-10.

Commissioner Sides said based on the evidence presented today, he would agree that the principles of res judicata and collateral estoppel did apply to quasi judicial hearings; however, he did not agree that res judicata and collateral estoppel applied to the application before the Board.

Commissioner Sides said based on information provided by Mr. Fox, there had been considerable change in the current application from the previous application. Commissioner Sides said he realized the previous decision was

made primarily based on safety factors and that the Board did not know at this point what the facts would be in regards to safety for a 1200' tower as opposed to the previous 1350' tower.

Commissioner Sides said based on his comments above, he would move against the Motion to Dismiss CUP 02-10. The motion was seconded by Commissioner Ford.

Commissioner Barber said he had planned to make a motion to support the dismissal of CUP 02-10 and would therefore vote against the motion. Commissioner Barber cited his reasons as to why he would vote against the motion and concluded by saying, in his opinion, res judicata and collateral estoppel did apply.

Commissioner Coltrain was in favor of the motion based on the principles of the County's ordinance allowing a new application. Commissioner Coltrain said he was not part of the Board that made the previous decision and he wanted to reserve the right to evaluate the information in the decision making process.

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

Mr. Fox noted for the record that a board member's participation on the issue should not affect their ability to hear the matter as it moved forward, provided they would base their decision on evidence presented at the quasi judicial proceeding. Mr. Fox said a board member's decision today, to either deny or support the Motion to Dismiss, should not be construed to suggest that a board member should not be able to participate in the upcoming hearing.

Commissioner Sides said the board members should not receive emails, calls, letters or communications regarding the issue from the public until after the hearing was held.

Chairman Mitchell agreed with Commissioner Sides and said if a citizen wished to give the Board information, the appropriate time would be at the scheduled public hearing.

Commissioner Barber said there would be an article in the newspaper and he pointed out that citizens could blog in regards to the article. Commissioner Barber asked if reading the blogs would be considered the same as reading an email. Mr. Fox encouraged board members to refrain from participating in a blog concerning the matter. Mr. Fox said board members should be fair, impartial and neutral until they had heard the evidence. Mr. Fox also asked citizens to refrain from any contact with board members and he also encouraged board members to refrain from responses to any emails or communications concerning the matter.

Mr. Fox said he had provided a copy of the proceedings for the hearing on the conditional use permit for the agenda packets. Mr. Fox highlighted the proceedings and requested that the Board approve the proceedings as the process to be undertaken in moving forth with the quasi judicial hearing.

Commissioner Sides moved approval of the Proceedings for Hearing on Conditional Use Permit Application CUP 02-10. The motion was seconded by Commissioner Coltrain and passed unanimously.

Mr. Fox updated the Board regarding the Notice of Appeal filed by the Petitioners, Richard L. Parker and Dorcas Parker.

Commissioner Sides moved to set the public hearing for August 1, 2011 beginning at 5:00 pm. The motion was seconded by Commissioner Coltrain.

A brief discussion ensued regarding the start time for the public hearing and Commissioner Sides withdrew his motion. Commissioner Sides then moved to start the public hearing at 4:00 pm on August 1, 2011.

Commissioner Ford questioned whether the Board would implement an ending time for the public hearing. Chairman Mitchell said the Board would recess, if necessary, if the public hearing went past 10:00 pm.

Upon being put to a vote the motion to start the public hearing at 4:00 pm on August 1, 2011 passed unanimously.

A DVD of this meeting has been included as part of the record for this discussion.

Chairman Mitchell called for a recess at 4:25 pm.

Chairman Mitchell reconvened the meeting at 4:35 pm.

**8. CONSIDER APPROVAL OF BOND ORDER AUTHORIZING THE  
ISSUANCE OF \$20,000,000 GENERAL OBLIGATION REFUNDING BONDS  
OF THE COUNTY OF ROWAN**

Finance Director Leslie Heidrick explained that the County currently had the opportunity to refund up to \$17,780,000 of 2003 bonds issued for school construction. Ms. Heidrick said at this time, the net present value savings associated with the refunding exceed 3%, which is the minimum savings needed to proceed with refunding. Ms. Heidrick reported that if interest rates remained constant, the County could realize savings of approximately \$90,000 per year for the next eight (8) years. Ms. Heidrick said if interest rates should rise over the next several months and the net present value savings fall below 3%, the County would halt the process in refunding the 2003 bonds.

Ms. Heidrick introduced and read the Bond Order Authorizing the Issuance of \$20,000,000 General Obligation Refunding Bonds of the County of Rowan as follows:

WHEREAS, the County has issued School Bonds, Series 2003, dated August 1, 2003 and \$17,780,000 of such bonds maturing in the years 2014 to 2019, inclusive, are outstanding (the "2003 School Bonds"); and

WHEREAS, the Board of Commissioners of the County deems it advisable to refund all or a portion of the 2003 School Bonds, pursuant to and in accordance with The Local Government Finance Act; and

WHEREAS, an application has been filed with the Secretary of the Local Government Commission of North Carolina requesting Commission approval of the Bonds hereinafter described as required by The Local Government Finance Act, and the Secretary of the Local Government Commission has notified the Board that the application has been accepted for submission to the Local Government Commission; NOW, THEREFORE,

BE IT ORDERED by the Board of Commissioners of the County of Rowan, as follows:

Section 1. The Board of Commissioners of the County has ascertained and hereby determines that it is advisable to refund all or a portion of the 2003 School Bonds.

Section 2. In order to raise the money required to refund the 2003 School Bonds as set forth above, in addition to any funds which may be made available for such purpose from any other source, bonds of the County are hereby authorized and shall be issued pursuant to The Local Government Finance Act of North Carolina. The maximum aggregate principal amount of bonds authorized by this bond order shall be \$20,000,000.

Section 3. A tax sufficient to pay the principal of and interest on said bonds when due shall be annually levied and collected.

Section 4. A sworn statement of the County's debt has been filed with the Clerk of the Board of Commissioners and is open to public inspection.

Section 5. This bond order shall take effect upon its adoption.

Ms. Heidrick reported that a statement of debt complying with the provisions of the Local Government Bond Act had been filed with the Clerk to the Board of Commissioners to reside in the Clerk's office and such statement, as filed, showed the net indebtedness of the County to be 0.77% of the assessed value of property in the County subject to taxation.

Commissioner Ford moved adoption and to direct the Clerk to the Board of Commissioners to publish as prescribed by the Local Government Bond Act, the Bond Order entitled Bond Order Authorizing the Issuance of \$20,000,000 General Obligation Refunding Bonds of the County of Rowan. The motion was seconded by Commissioner Barber and passed unanimously.

### **ADDITIONS**

#### **8b. Request from Economic Development Commission Regarding Project New Earth**

Economic Development Director Robert Van Geons discussed a request for the Board to hold a public hearing on or before July 27, 2011. The public hearing

would be for consideration of Project New Earth, an existing industry in Rowan County. The potential project would add an additional 148 workers.

Commissioner Sides moved to set a public hearing for July 18, 2011 at 8:30 am. The motion was seconded by Commissioner Barber and passed unanimously.

### **8c. Use of pyrotechnics for fireworks display at Tamarac Marina**

Chairman Mitchell said a request for the use of pyrotechnics for fireworks had been received from Dan Black. Chairman Mitchell said there was an issue with the timeliness of the request and it was not the first time the request had been submitted late.

Commissioner Coltrain moved approval of the request and asked that the Fire Marshal and EMS Director develop a recommended submittal timeframe for these types of applications/events. Commissioner Coltrain said a policy for such applications would eliminate "last minute" requests. Commissioner Coltrain said the Board could receive the recommendation from Staff at the next meeting. Commissioner Coltrain said if applications were not received in a timely manner after the policy was developed, the applicant would have to wait until the next Board meeting for possible approval.

Commissioner Sides asked if the County already had a rule in place and Chairman Mitchell said part of the issue was that Staff had an agenda deadline for board meetings; however, the public in general was not aware of the deadline.

Commissioner Sides said it was not the first time the Board had to add the request to the agenda for this particular applicant.

Commissioner Coltrain said he had talked with EMS Director Frank Thomason and there was no written policy as to when applications for pyrotechnics displays had to be received by Staff, whether it was 60 or 90 days, etc.

Chairman Mitchell stated that the motion was to accept the application and to ask that Staff develop a deadline procedure for fireworks requests in order to allow Staff time to review the application and submit the application to the Board for approval. The motion was seconded by Commissioner Ford and passed unanimously.

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

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

- Finance – To align County's budget with most recent budget information received from the State for the Title V Program. These funds will pass

through the County to Ruffy Holmes, who will administer the Program - \$58,770

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

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

The Board of Commissioners was asked to ratify the term for Lynn Richards to reflect a two (2) year term instead of a three (3) year term beginning July 1, 2011 and expiring June 30, 2013.

Commissioner Sides moved, Commissioner Barber seconded and the vote to ratify the term limits for Lynn Richards as requested passed unanimously.

**CRIMINAL JUSTICE PARTNERSHIP PROGRAM**

An application for reappointment was received from Phillip Leonard. In order to be considered, the Board would need to waive the term limits set forth in the Resolution adopted in September 2009.

The term would be for three (3) years beginning July 1, 2011 and expiring June 30, 2014.

Commissioner Barber moved to waive the term limits for Phillip Leonard and to reappoint Mr. Leonard. The motion was seconded by Commissioner Coltrain and passed unanimously.

**KANNAPOLIS PLANNING AND ZONING**

The City of Kannapolis is requesting the appointment of Leonard Ray Beaver to the Kannapolis Planning and Zoning Board as the ETJ representative. The term would be for three (3) years beginning July 1, 2011 and expiring June 30, 2014.

Commissioner Coltrain nominated Leonard Ray Beaver and the nomination passed unanimously.

**CABLEVISION BOARD OF DIRECTORS**

The Board of Commissioners was asked to reappoint the MIS Director of Rowan County, David Boling and Library Director, Jeff Hall. The terms would be for three (3) years beginning August 1, 2011 and expiring July 31, 2014.

Commissioner Ford requested a history of the meetings, as well as attendance records for the Cablevision Board of Directors. No appointments were made at this time.

### **EAST GOLD HILL VFD COMMISSION**

There is one vacancy and the following applications we received:

- Everett L. Vanhoy
- Ralph Trexler

The term would be for two (2) years beginning August 1, 2011 and expiring July 31, 2013.

Commissioner Sides nominated Everett Vanhoy and the nomination carried unanimously.

### **LIBERTY VFD COMMISSION**

There are three (3) vacancies and the following applications were received for consideration for reappointment:

- Robert Goodman
- Jerry Hill
- Samuel Bonds

The terms would be for two (2) years beginning July 1, 2011 and expiring June 30, 2013.

Commissioner Barber nominated Robert Goodman, Jerry Hill and Samuel Bonds and the nomination carried unanimously.

### **SENIOR SERVICES ADVISORY COUNCIL**

Due to the Board of Commissioners recent merger of senior services programs with the Rufty Holmes Senior Center, the Board of Commissioners may wish to consider disbanding this Council. There are currently ten (10) members.

Commissioner Barber moved to disband the Senior Services Advisory Council. The motion was seconded by Commissioner Ford and passed unanimously.

### **11. ADJOURNMENT**

There being no further business to come before the Board, Commissioner Barber moved to adjourn at 4:52 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