

CALDWELL COUNTY  
Lenoir, North Carolina

BOARD OF COMMISSIONERS  
September 4, 2007  
10:00 a.m.

Present: Faye R. Higgins, Chairman  
Don Barrier  
Dr. John W. Thuss

Absent: Ron Beane, Excused  
Herbert H. Greene, Excused

Staff Present: Jack Horton, County Manager  
Kathy T. Myers, Clerk to the Board  
David Lackey, County Attorney

Chairman Higgins called the meeting to order and welcomed everyone. County Manager Jack Horton read Psalm 30 and Commissioner Barrier led the Pledge of Allegiance.

Chairman Higgins asked if there were any additions or amendments to the September 4, 2007 agenda and there being none, Commissioner Barrier moved to approve the agenda as presented. Commissioner Thuss seconded the motion and it carried unanimously.

#### Request from EMS to Purchase Billing Software Module

EMS Director Tommy Courtner appeared before Commissioners regarding his request to purchase equipment. He said because there are various software systems and different medical claim systems, the department is often left with no way to try to collect some of the bills. One case is claims for Railroad Medicare assistance which the department doesn't have a method to submit them for payment.

He provided information about the equipment including the cost with a support contract and taxes at \$5,181.36. He reported that his staff advises that the claims waiting to be submitted for Railroad Medicare are three times the amount of the equipment acquisition and; therefore, the purchase and ability to collect payment on the claims made it a feasible purchase.

Mr. Courtner reported that from January 1<sup>st</sup> thru June 30<sup>th</sup>, there were 818 commercial claims that were quite expensive to process when considering the postage, supplies, and HIPPA forms to be completed by staff. He said the new equipment and software would allow electronic filing with a turnaround of payment in about 7 to 14 days. It was noted that Blue Cross Blue Shield of North Carolina was also a big commercial company and their claims could also be filed electronically which would result in faster reimbursement to the County.

Mr. Horton informed Commissioners that he recommended approval of the purchase using funds within the department's current budget and noted there would be no additional local tax dollars involved with the purchase.

Commissioner Thuss moved to approve purchase of the software billing system as well as the support contract with funds from the EMS Department's current year budget from generated

EMS collections; and to approve the supporting budget amendment. Commissioner Barrier seconded the motion and it carried unanimously.

#### Approval Request to Release Delinquent Taxes

Tax Administrator Mack Chandler appeared before the Board of Commissioners concerning old delinquent taxes owed to the County. In accordance with North Carolina General Statutes 105-378 and 105-373H, Mr. Chandler requested the Board's approval to release delinquent ten-year old (1997) real and personal property taxes in the amount of 11,974.60 as well as delinquent 2000 motor vehicles taxes in the amount of \$97,181.40. He said staff had made all possible efforts to collect the taxes.

Following discussion, Commissioner Thuss moved to approve the release of delinquent 1997 real and personal property taxes in the amount of \$11,974.60 as well as the release of 2000 motor vehicle taxes in the amount of \$97,181.40. Commissioner Barrier seconded and the motion carried unanimously.

#### Plan for Water Operations during Drought Situations

Public Utilities Director Dwight Minton informed the Board of Commissioners that Duke Power Company recently announced the implementation of its "Stage II, Low In-flow Protocol" rules that were established as a part of Duke's FERC (Federal Energy Relicensing Commission) relicensing process. He said the rules called for mandatory water conservation measures by the twenty-four communities that are parties to the agreement. Caldwell County and its municipalities are parties to the agreement, as users of water withdrawn from Lake Rhodhiss in the Catawba-Wateree river system.

He said that because long-range weather models do not project any appreciable rain events, the current drought is likely to continue. If the weather models are correct, it is likely that the "Stage III, Low In-flow Protocol" rules will be triggered – possibly within six to eight weeks. The Stage III rules have the potential to significantly impact the economy of the region, as water usage must be drastically curtailed.

Mr. Minton said because of the rural and expansive nature of Caldwell County's water distribution system, the steps that a city or town with relatively high-density might take to restrict excessive water usage by its customers were not very effective when applied to the County's water operation. Probably one-third of the residences served by the County's system were not visible from the main highway, making observation-based enforcement of mandatory restrictions difficult to impossible.

He said staff felt the most effective way to insure compliance by the County's water customers with the mandatory conservation requirements was financially. Therefore, staff developed water rate schedules for both Stage II and Stage III Rules for consideration by Commissioners.

More than half of the County's water customers routinely conserve water by not exceeding the monthly minimum usage amount of 3,000 gallons. The customers are most likely low and/or fixed-income users who conserve for economic reasons. Staff feel those customers should not be negatively impacted by any steps taken to conserve water as they are already in what staff considers being the "Necessity" tier of the County's water rates schedule.

Mr. Minton provided a proposal (special Stage II and Stage III, Low In-flow Protocol rates schedules) for Commissioners to consider adopting to be triggered for application by Duke Power's official announcements. Both rate schedules leave the regular schedule as-is for up to 4,000 gallons per month, or approximately 120 gallons per day, per household which would not negatively affect customers who routinely use only about the minimum amount allowed per month.

He said staff proposed, under the Stage II rate schedule, the residential water customer who exceeds 4,000 gallons per month – and enters the “Luxury” tier - will pay from 25% to 50% more than they normally pay for that excess water. The non-residential customer will pay from 10% to 25% more for that excess water. And, under the proposed Stage III rate schedule, the residential water customer will pay from 30% to 75% more for water used in excess of 4,000 gallons and the non-residential customer will pay from 25% to 60% more.

In addition, he said staff felt the likelihood of meter and hydrant tampering might increase if the schedules were adopted; therefore, he recommended a \$1,000.00 fine and disconnection from the system for tampering with a meter, and a \$1,500.00 fine for unauthorized use of a fire hydrant.

Following discussion, Commissioner Thuss moved to approve the policy, in concept, and directed that Mr. Minton, the County Manager, and the Finance Director to bring back the issue on September 17, 2007 with a breakdown of the consumption and percentages as well as a plan to educate the public; further to authorize scheduling a public hearing, if needed. Commissioner Barrier seconded and the motion carried unanimously.

#### P-COOP Plan for the NC Judicial System

Mr. Horton briefed Commissioners about a previous meeting when they heard a report from Judge Beverly Beal on the need to develop a plan addressing operations of the County's courthouse/judicial system during a pandemic. He said a plan was developed by the NC Judicial System for use by local court systems as well as a memorandum of agreement for management of the Caldwell County Courthouse and its facilities.

Following discussion, Commissioner Barrier moved to approve the D-COOP Plan as presented, to authorize Chairman Higgins to execute the memorandum of agreement, and to appoint the County Manager to serve on the Committee. Commissioner Thuss seconded the motion and it carried unanimously.

#### Request for New Social Worker Position at DSS

Wendy Pyle appeared before the Board of Commissioners to request their approval for a new social work position to work in the area of foster care due to a significant increase of children entering the program during the past twelve months. She highlighted the following monthly averages for the past three years and said, currently, the department had 194 children in foster care.

- 2005                      134 children
- 2006                      138 children
- 2007                      174 children

She said the position was initially requested during the FY2007-08 budget process; however, it was not approved. Since that time, the department was notified by the NC Division of Social

Services of an additional federal allocation amounting to \$14,518.00 for the purpose of assisting in meeting requirements in the foster care program. The allocation amount was based on the number of children in foster care on September 30, 2006 and staff felt the amount would increase as a result of the increased number of children currently in the program.

Ms. Pyle said the position would draw 75+% reimbursement and with the additional federal allocation, there would be no local dollars associated with the new position.

Commissioner Thuss moved to approve the new social worker position for the foster care program and the appropriate budget amendment. Commissioner Barrier seconded the motion and it carried unanimously.

#### Rezoning Request from The Log Yard, Inc. for a Conditional Use Request

Planning Director Randy Feierabend briefed Commissioners on the request heard during the Board's last meeting seeking a rezoning of three parcels, NCPIN 2810232442, (totaling approximately 9.3 acres) from RA20 to NB with a Conditional Use Permit that would allow structure(s) exceeding the 2500 square feet cap. However, he said because the square footage of the facility was not available during the meeting and later provided to Commissioners for their review, no action was taken on August 27<sup>th</sup> in order to allow Commissioners time to review plans submitted for the request.

He provided a much clearer plan than presented during the Board's August 27<sup>th</sup> meeting and showed them an aerial photo of the site(s). He said the request for a conditional use to exceed the allowed 2500 square feet on the 4.50 acres west of Abington Road was to allow a 10,000 sq. ft. building. The other conditional use request to exceed the allowed 2500 square feet on the 7.56 acres was for a 45,000 sq. ft. building.

Mr. Feierabend highlighted the following conditions proposed by Commissioners, individually, for approval of the conditional use permits:

1. Gas storage tanks shall not be placed within the 100-year floodplain
2. Ownership of off-site drain-field property must be in same ownership as property being served
3. Proposed request calls for a 250-seat restaurant at 10,000 square feet maximum. If restaurant seating is reduced, then the total square footage must be reduced at the rate of 40 square feet per seat removed.
4. All structures shall meet the following guidelines:
  - a. Exterior building materials shall primarily consist of natural elements such as stone, logs, wood shingle, wood lapped siding, or vertical board and batten. Roofing materials shall be chosen to blend in with the natural tree canopy. Metal buildings are not permitted.
  - b. Dominant exterior building colors should be chosen to blend in with the natural surroundings. All shades of white, cream, or beige are prohibited from being used as the primary exterior color on any structure.
  - c. Exterior lighting shall be muted, fully shielded, and directed to avoid illuminating entire structures, creating glare on the night sky, and attracting attention to particular areas for reasons other than security. Ambient lighting highlighting walkways, special landscaping or special architectural elements provided it does not distract vehicular traffic. Lighting for gas station canopy must be flush mounted.

- d. Signage on commercial buildings must be made of natural materials (or have such an appearance) and may not be internally illuminated. On-premise signage must be monument design and meet the above requirements. Indirect lighting ONLY is allowed for signage.
  - e. Public trail easements must be established where there is an opportunity to implement county recreation and greenway plans. Provided the property owner has no liability.
  - f. In the landscaping plan, perennial shrubs and trees shall consist primarily of native vegetation.
5. Prior to the issuance of a zoning compliance a thorough site plan must be submitted demonstrating compliance with the Conditions of Approval stated herein.

Mr. William Salgado, an attorney, and Alexander Salgado, a CPA, as well as Marion Rothrock provided the Board of Commissioners details about plans for the property and answered questions of the Commissioners to provide a clearer understanding of the plans. In addition, they said the businesses would operate seven days a week from 7:00 a.m. until 11:00 p.m.

Commissioner Thuss said with the changes in the presentation on the three pieces of property known as the Chandler/Sohl property, he moved that the rezoning request be approved under the conditions that the Planning Director had stated with the inclusion of hours of operation of the convenience store/service station from 7 am to 11 pm maximum, seven days a week. Commissioner Barrier seconded the motion and it carried unanimously.

Further, Commissioner Thuss moved that the approval was contingent upon the sale transacting in a reasonable amount of time to this particular developer, otherwise it reverted to its original zoning. Commissioner Barrier seconded the motion and it carried unanimously.

#### 2007 Hazardous Materials Emergency Planning Grant

Robert Reid, Assistant Emergency Management Coordinator, reported their office was awarded a 2007 Hazard Materials Emergency Planning (HMEP) Grant in the amount of \$5,000. He said the purpose of the grant was to complete a Basic Hazardous Materials Response Plan that would include all facilities that store Extremely Hazardous Substances (EHS) as defined by the EPA. It was noted the grant was a reimbursable grant and the County must pay for all costs associated with the completion of work and then request reimbursement from the State of North Carolina. Additionally, he noted that no local funds or local match will be required for this grant.

Commissioner Thuss moved to formally accept the 2007 Hazardous Materials Grant and direct the Finance Director to set up revenue and expenditure line items in the Fire Marshal's budget. Commissioner Barrier seconded the motion and it carried unanimously.

#### Consent Agenda

##### 1. Approval of Minutes

The County Manager recommended the Board of Commissioners approve the August 6, 2007 minutes as prepared and presented by the Clerk.

##### 2. Budget Amendment

The County Manager recommended the Board of Commissioners approve the following budget amendment and authorize staff to execute documents associated with the budget amendment.

- Juvenile Crime Prevention Council Grant; \$15,900.84

The local Juvenile Crime Prevention Council receives funds from the State Department of Crime and Control and the following budget amendment is necessary to set up a budget for this year's local operation:

Increase	12.5830.330000	Other Grants	\$15,900.84
Increase	12.5830.468006	DJJP	\$15,900.84

### 3. Request from Petitioners to Add Blackberry Court to State Road Maintenance System

The County Manager recommended the Board of Commissioners approve the formal submittal of the petition which is hereby incorporated by reference and made a part of these minutes (Exhibit A) requesting Blackberry Court be added to the State Road Maintenance System to the North Carolina Department of Transportation for their review and action.

### 4. Approval Requested to Endorse Use of Airport Authority Funds to Build Hangar at Foothills Regional Airport

The County Manager reported that part of the VX Aerospace ("VX") economic development project at the Foothills Regional Airport ("airport") involves the construction of their permanent facility on the airport property. In an effort to locate here, VX is currently leasing a manufacturing facility in Drexel to make airplane parts. A discussion early on involved their need to have hangar space at the airport in order to complete the wing assembly aspects of producing their planes. The Authority had committed to work with VX to provide, on a leased basis, such a facility either from existing hangar space or construction of a new hangar.

Part of the intergovernmental agreement approved by 3 of the 4 local governments referenced the construction of a large hangar at a cost of approximately \$350,000 to serve not only VX but also future opportunities to lease for other airplanes. Because of the timing necessary to follow the Local Government Commission, the Authority has been evaluating ways to meet VX's needs in a much more timely fashion.

The agreed upon solution by the Authority is to construct a smaller scale hangar that will suffice VX for a short period of time while they build their permanent space. This smaller hangar is estimated at a cost of \$100,000. The Authority currently has the funds to undertake this construction without any necessary borrowing or additional funds from the four local governments. In order to proceed with any further actions, the Authority agreement with the four local governments requires local government approval for airport capital expenses.

It was noted that aside from this particular request, the fact that the Authority still wishes to construct a much larger facility for lease to additional aircraft. This project is incorporated in the proposed interlocal government agreement and no action will be incurred by the Authority on the future larger hangar until all four local governments are in agreement with long term financial support for the authority.

It was also noted that approval by the Caldwell County Board of Commissioners for the construction of this smaller hangar will not require any additional funding from any of the four local governments. Therefore, the County Manager recommended the Caldwell County Board of Commissioners approve the request from Foothills Regional Airport to construct a hangar for use by VX as part of the overall economic development project for the airport.

Commissioner Barrier moved to approve the four (4) items on the consent agenda as presented and recommended by the County Manager. Commissioner Thuss seconded the motion and it carried unanimously.

### Appointments

Chairman Higgins moved to appoint Sharon Robbins to the Region E Aging Advisory Committee and Commissioner Barrier seconded the motion. The vote was unanimous.

Chairman Higgins moved to appoint the following individuals to serve 2 or 3 year terms, respectively, on the Local Emergency Planning Committee. Commissioner Barrier seconded the motion and the vote was unanimous.

<u>Member</u>	<u>Representation</u>	<u>Term</u>
Don Barrier	County Commissioner	2 Years
Tommy Courtner	Emergency Services Director	3 Years
Regina Yates	Sealed Air Corporation	2 Years
Robbie Wilkie	Fire Marshal	3 Years
Ronnie Jewell	Blue Ridge Electric	2 Years
Cheryl Whittington	FM/EM Administrative Assistant	3 Years
Ken Briscoe	Lenoir Fire Department	2 Years
Robert Reid	Assistant EM Coordinator	3 Years
David Stout	Broyhill Furniture Industries	2 Years
Tony Whitt	Environmental Health	3 Years
Thurman Roe	MDI, Inc.	2 Years
Denise Michaud	County Health Director	3 Years
Kevin Brown	Lenoir Police Department	2 Years
Ronald Vodan	Caldwell Memorial Hospital	3 Years
Norman Staines	CCC&TI	2 Years
Jack Daulton	Caldwell County DSS	3 Years
Libby Brown	Caldwell County Schools	2 Years
David Phillips	RPM/Chemical Coatings	3 Years
William Howard, III	Bernhardt Furniture	2 Years
Mark Hawes	Shurtape Technologies	3 Years
Jack Horton	Caldwell County Manager	Standing Member
Faye Higgins	County Commissioner	Standing Member

Chairman Higgins moved to appoint Mearle Hickman to serve on the Jury Commission contingent upon an application submitted by Mr. Hickman indicating his willingness to serve. Commissioner Thuss seconded the motion and the vote was unanimous.

With no further business to conduct, Commissioner Barrier moved to adjourn. Commissioner Thuss seconded the motion and, by unanimous vote, Chairman Higgins declared the meeting adjourned at 11:25 a.m.