

April 5, 2010

The Randolph County Board of Commissioners met in regular session at 4:00 p.m. in the Commissioners Meeting Room, County Office Building, 725 McDowell Road, Asheboro, NC. Commissioners Holmes, Frye, Haywood, Kemp and Lanier were present. Rev. Bruce McLanahan of Shiloh Baptist Church, Ramseur, gave the invocation, and everyone recited the Pledge of Allegiance.

Special Presentations

Chairman Holmes announced that Randolph County had won an Outstanding County Program Award from the NCACC for Client Management Software. Todd McGee of the Association presented the award to Jeff Mullins, Computer Services; Patrick Skelly, DSS and Tamara Stout, DSS.

Public Comment Period

Pursuant to N.C.G.S. § 153A-52.1, Chairman Holmes opened the floor for public comment. No one spoke.

Approval of Consent Agenda

On motion of Frye, seconded by Lanier, the Board voted unanimously to approve the Consent Agenda, as follows:

- *approve minutes of regular meeting of March 1, 2010 and March 20, 2010 Planning Retreat;*
- *approve Budget Amendment #31 for Library (Presnell Grant), as follows:*

2009-2010 BUDGET ORDINANCE		
General Fund—Amendment # 31		
Revenues	Increase	Decrease
<i>Miscellaneous Revenue</i>	\$ 1,500	
Appropriations	Increase	Decrease
<i>Public Library</i>	\$ 1,500	

- *approve Budget Amendment #32 for Public Health (Women’s Health, Food/Lodging Funding), as follows:*

2009-2010 BUDGET ORDINANCE		
General Fund—Amendment #32		
Revenues	Increase	Decrease
<i>Restricted Intergovernmental</i>	\$ 8,320	
Appropriations	Increase	Decrease
<i>Public Health</i>	\$ 8,320	

- *approve Budget Amendment #33—Historic Courthouse, as follows:*

2009-2010 BUDGET ORDINANCE		
General Fund—Amendment #33		
Revenues	Increase	Decrease
<i>Appropriated Fund Balance</i>	\$ 100,000	
Appropriations	Increase	Decrease
<i>Public Buildings</i>	\$ 100,000	

- *reappoint Jimmy Rains to Randolph County Planning & Zoning Board and Board of Adjustment*

Changes to the Agenda

Chairman Holmes announced that the Emergency Medical Services Appreciation Week Proclamation would be removed from Item C. under New Business and would be placed on the May agenda. The following two items were added to New Business, as follows:

- P. Consider Resolution Declaring Intent to Close Center Street in Asheboro; Set Public Hearing for the Road Closing (Suggest 4:30 p.m., May 3, 2010)—*Aimee Scotton*
- Q. Discuss Possible Need to Set Special Meeting Due to Ethics Training Class (on April 15 from 1:15-3:30 p.m. at the Trinity City Hall)—*Chairman Holmes*

Presentation on Restoration of Sunset Theatre and Request for Funding

Asheboro Mayor David Smith presented a video on the history of the Sunset Theatre, which was constructed in 1929; the video included plans for the completion of the restoration and expansion of the Sunset Theatre into a regional performing arts center. Mayor Smith said that a \$1.2 million capital campaign is underway to fund the project. Bill Hoover, Co-Chair of the campaign also spoke in support of the project. He asked the County to consider a contribution of \$50,000/year for 5 years.

Report from Randolph County American Red Cross (ARC)

Don Childers, Chair of the Randolph County Red Cross Advisory Committee, gave a report on the services that the American Red Cross provides to the citizens of Randolph County: blood services, disaster services, service to the Armed Forces, volunteer services, and health and safety training. Bill Brent also spoke, saying that the ARC collected 5,401 pints of blood last year and responded to 43 fires, serving 49 families and provided shelter, food, clothing and other necessities, totalling nearly \$31,000 in family assistance to Randolph County. They also provided 88 services for 45 individuals with military members overseas. Last year, 45 volunteers helped to serve the Randolph County community and the ARC certified or trained more than 3,100 people through more than 450 community health and safety classes, such as first aid/CPR, babysitting and water safety programs.

Approval of Proclamation for Public Safety Telecommunicators Appreciation Week

On motion of Haywood, seconded by Kemp, the Board unanimously adopted a Proclamation for Public Safety Telecommunicators Appreciation Week, as follows:

WHEREAS, *emergencies can occur at any time, requiring sheriff, police, fire, rescue or emergency medical services; and*

WHEREAS, *when an emergency occurs, the prompt response of law enforcement, firefighters and paramedics is critical to the protection of life and preservation of property; and*

WHEREAS, *the safety of our deputies, police officers, firefighters, and emergency medical services is dependent upon the quality and accuracy of information obtained from citizens who telephone the Randolph County E 9-1-1 Communications Center; and*

WHEREAS, *public safety telecommunicators are the first and most critical contact our citizens have with the emergency services; and*

WHEREAS, *public safety telecommunicators of the Randolph County E 9-1-1 Communications Center have contributed substantially to the apprehension of criminals, suppression of fires, and treatment of patients; and*

WHEREAS, each telecommunicator has exhibited compassion, understanding and professionalism during the performance of their job in the past year; and

WHEREAS, the services of public safety telecommunicators is a “silent service,” and their duties are seldom observed by the public.

NOW THEREFORE, the Randolph County Board of Commissioners hereby proclaims the week of April 11 – 17, 2010, as “National Telecommunicators Week” and urges all citizens to join in honoring the men and women whose diligence and professionalism keep our county and citizens safe.

Approval of Resolution of Support of Protection of Room Occupancy Tax

Tammy O’Kelley, Director of Tourism, Randolph County Tourism Development Authority, said that online travel companies or OTCs (such as Expedia, Travelocity, Orbitz, Priceline, and Hotels.com) contract with hotels to sell their rooms. For the rooms they sell, OTCs pay discounted rates to hotels. The OTCs then charge consumers a marked-up rate, including collecting hotel taxes based on the higher price. Some OTCs, however, do not pay to state and local governments the full amount of hotel taxes they collect, rather, they pocket the differences between the amount consumers pay in taxes and what the OTC paid when it bought the room. To collect hotel taxes owed, local governments throughout the U.S. have filed lawsuits against OTCs. Now, OTCs are seeking to circumvent this via Congressionally-imposed preemption of local taxing authority. The problem is that several US municipalities have challenged the OTCs about the amount of hotel occupancy taxes owed and, because of this, the OTCs are lobbying to receive a legislative fix at the federal level that would preempt the taxing authority of state and local governments and basically, exempt them from paying the full amount of occupancy tax owed to the local governing authority where the room was sold.

Local governments and the hotel industry are responding, via lobbyists from the National Association for Counties and other powerful government and travel-related lobby groups at the national level, who are now working to defeat the OTC’s attempts to get a legislative fix because it would pre-empt the taxing authority of state and local governments. The North Carolina Association of County Commissioners, among other factions around the state, are concerned, as well, that the language in the proposed bill could potentially lead to eliminating all occupancy taxes on room rental bookings. In North Carolina, that could be a revenue loss in excess of \$75 million. Ms. O’Kelley encouraged the Board to adopt a resolution in support of the protection of local occupancy tax.

On motion of Kemp, seconded by Frye, the Board unanimously adopted a Resolution of Support of Protection of the Room Occupancy Tax, as follows:

WHEREAS, the Randolph County Tourism Development Authority serves as a specialized economic development engine with a mission to market and promote the tourism industry as Randolph County’s official Destination Marketing Organization (DMO) for its nine municipalities as granted in North Carolina House Bill 337, an act to authorize Randolph County to levy a room occupancy and tourism development tax; and

WHEREAS, Randolph County’s occupancy tax funds, used solely to promote tourism, bring visitors and dollars to its local communities benefitting a multitude of businesses, both large and small, including hotels, museums, area attractions, special events, restaurants, rental car and cab companies, and gas stations, generating an estimated \$108 million dollars in visiting spending revenues for Randolph County in 2008; and

WHEREAS, reducing or eliminating online travel companies (OTCs) taxes would provide them an unfair competitive advantage by providing them preferential tax treatment; and

WHEREAS, this proposal will not create jobs; rather, it will cut essential funding to local governments and DMOs for tourism promotion, which will result in job losses and service cutbacks; and

WHEREAS, according to the Center on Budget & Policy Priorities and the North Carolina Association of County Commissioners, state and local governments stand to lose upwards of \$8.5 billion in U.S. dollars annually, a \$75 million annual loss in North Carolina if a ban on taxation of OTCs is adopted; and

WHEREAS, whether to impose hotel taxes, and at what rate, is a local decision and Congress should not act to give a \$50 billion a year industry preferential tax treatment at the expense of already strained state and local tourism budgets; and

WHEREAS, no bill on this issue has ever been introduced in either chamber, no hearings having been held, and no testimony from any local government tourism official or DMO representative has been presented as to the adverse financial effects this proposal would have on local tourism authority budgets;

NOW THEREFORE BE IT RESOLVED, that the Randolph County Board of Commissioners supports all local and state taxing authority laws that govern the collection of hotel taxes in full.

BE IT FURTHER RESOLVED, that Randolph County strongly opposes any actions which impact local governments' ability to levy taxes on rooms that are marketed through online travel companies.

Public Hearing on Closing Mountain Street and Adoption of Order to Close Road

Aimee Scotton, Associate County Attorney, reminded the Board that she had received a letter from attorney Margaret Megerian who, on behalf of her client, Ms. Dorothy Smith, has requested that the Randolph County Board of Commissioners act to permanently close a portion of Mountain Street. Ms. Smith is the owner of lots 39 through 40 and 136 through 152 of the Rushwood Park Subdivision. There are two recorded surveys of these parcels. The earlier of the two surveys shows a road running between two parcels owned by Ms. Smith (Mountain Street); on the other survey, this same section of road is labeled "Road Not Open." Ms. Smith is requesting that the County act to officially and permanently close this road.

The procedure for closing a public road or easement is governed by North Carolina General Statute §153A-241. The first step requires that the Board of Commissioners adopt a resolution declaring its intent to close the road and calling for a public hearing on the question, which the Board did at its previous regular meeting in March. In accordance with the statute, this notice was published once a week for three successive weeks. The statute further requires that a copy of the resolution be sent by registered certified mail to each owner of property adjoining the road, as shown by the county tax records, who did not join in the request to have the road closed. This required notice was sent to Larry W. and Christie B. McKenzie, the only affected property owners who did not join in the request. Furthermore, a notice of the closing and the public hearing was posted in at least two places along the section proposed to be closed as prescribed by the statute. Following the public hearing this day, if the Board of Commissioners is satisfied that closing this road will not be detrimental to public interest and will not deprive any individual of access to his property, the Board may adopt an order closing the road. A certified copy of the order shall then be filed with the Register of Deeds office.

At 4:48 p.m., Chairman Holmes opened the public hearing.

John Megerian, attorney, spoke on behalf of Dorothy Smith, who is requesting that the road be closed. He said that he knows of no one who objects to this matter.

Chairman Holmes closed the public hearing.

On motion of Frye, seconded by Haywood, the Board voted unanimously to adopt an order to close Mountain Street in Asheboro, as follows:

WHEREAS, the Randolph County Board of Commissioners received a request to permanently close the following section of Mountain Street:

From where Mountain Street borders parcel 154 of Rushwood Park Subdivision (approximately 390 feet from its intersection with "Center Street") to intersection with a street referred to as "Center Street" in a survey entitled "Rushwood Park" and recorded in Platbook 1, Page 233 in the Randolph County Registry; said section is also depicted as "Road Not Open" running from parcel 154 of Rushwood Park Subdivision approximately 315.14 feet from its intersection with Danwood Street/SR 1434 as depicted in a survey entitled "Final Plat Prepared for Dorothy Swaney Smith" recorded in Plat Book 123, Page 90 in the Randolph County Registry; and

WHEREAS, on March 1, 2010, the Randolph County Board of Commissioners adopted a resolution declaring its intent to close said street or easement and set a public hearing on the issue for April 5, 2010, all in accordance with North Carolina General Statute §153A-241; and

WHEREAS, notice of the proposed closing and public hearing were prominently posted in two places along said street; and

WHEREAS, a copy of the resolution was sent by registered or certified mail to each owner as shown on the county tax records of property adjoining said road or easement; and

WHEREAS, notice of the public hearing set by the Randolph County Board of Commissioners for April 5, 2010 was published once a week for three successive weeks before the hearing; and

WHEREAS, the Randolph County Board of Commissioners has determined through the public hearing that the closing of the aforesaid street is not contrary to the public interest and that no individual owning property in the vicinity of said street would be deprived of reasonable means of ingress and egress to his property;

NOW THEREFORE, BE IT ORDERED by the Randolph County Board of Commissioners the above-referenced portion of Mountain Street be permanently closed and that all right, title, and interest in its respective rights-of-way is vested in those persons owning lots or parcels of land adjacent to the street or easement.

BE IT FURTHER ORDERED that a certified copy of this Order shall be filed in the Register of Deeds Office.

Adoption of Resolution Declaring Intent to Close Road

Aimee Scotton, Associate County Attorney, said that she had received another request from attorney Margaret Megerian who, on behalf of her client, Ms. Dorothy Smith, has requested that the Randolph County Board of Commissioners act to permanently close a section of Center Street (as described in the resolution below) over to Mountain Street in the Rushwood Park Subdivision. Ms. Scotton advised that the same procedure (outlined in the previous item above) for the Mountain Street closure would be followed for this closure.

On motion of Haywood, seconded by Lanier, the Board voted unanimously to set a public hearing for the closing of Center Street in Asheboro for 4:30 p.m. on May 3, 2010, and adopted the following resolution declaring its intent to close the road:

WHEREAS, the Randolph County Board of Commissioners has received a request from Dorothy Smith, of 876 Danwood Street, Asheboro, NC to permanently close the following section of Center Street:

From the end of Center Street at the Western boundary of the Rushwood Park Subdivision approximately 150 feet to the intersection of Center Street and a road labeled "Mountain Road" in a survey entitled "Rushwood Park" and recorded in Plat Book 1, Page 233, in the Randolph County Registry; said section is also depicted as "Street Not Open" running from two new iron pipes marking the Southwest corner of Lot 139 and the Northeast corner of Lot 138 of Rushwood Park Subdivision

approximately 152 feet to Danwood Street/SR 1434 as depicted in a survey entitled "Final Plat Prepared for Dorothy Swaney Smith" recorded in Plat Book 123, Page 90 in the Randolph County Registry.

WHEREAS, North Carolina General Statute § 153A-241 requires that the Board of Commissioners hold a public hearing prior to the closing of any road to consider the effects of said closing on the public interest or on individual property rights;

BE IT RESOLVED that the Randolph County Board of Commissioners hereby declares its intent to permanently close Center Street as specifically outlined above.

BE IT FURTHER RESOLVED that the Randolph County Board of Commissioners has set a public hearing for 4:30 p.m. on May 3, 2010 to consider said closing and to allow for the public to be heard on this matter.

Update on Senior Adults Association Capital Needs

Candie Rudzinski, Randolph County Senior Adults Association Director, gave a PowerPoint presentation on the need for a new senior center and asked that the Board keep this project in mind as it considers funding requests. She noted inadequacies with their current facility, including square footage, flooding problems and mold. The strategic plan includes a new 39,204 sq. ft. center located on Old Cox Rd.; Asheboro, featuring a new education wing, fitness area, retail area and 15,941 sq. ft. for outdoor activities and support. She said that membership needs to increase to 2000+ members and dues need to increase from \$5/yr. (currently) up to \$100 on a sliding fee scale. Proposed hours of operation for the new center would be expanded to seven days/wk., Monday-Sunday, 6 a.m. to 10 p.m. The cost of the proposed center would be around \$5.5-6 million. She projected new annual revenue from the proposed center, as follows: rent to members for weddings or parties: \$10,400; rent retail: \$60,000; sponsorships: (daily-\$12,250, corporate-\$10,000); classroom rental: (current & new members--\$236,250, non-members--\$630,000; activities--\$180,000; membership dues: \$200,000, for a grand total of \$1,338,900. This new revenue stream would help with the center's proposed budget for operating cost of \$2,568,880. Ms. Rudzinski asked the Board to consider allocating \$100,000/yr. for 5 years for the new center.

Approval of New Federally-Funded Position at Health Department

MiMi Cooper, Public Health Director, stated that the Women, Infant and Children's (WIC) Supplemental Nutrition Program has received additional on-going funding to support women who choose to breastfeed their children. The Health Department would like to establish an additional breastfeeding peer counselor position in the WIC program. This position is classified in our position plan as a Medical Office Assistant, which is a Grade 57. Ms. Cooper stated that the funds for this position are already available, but should the federal funding ever be terminated, the position will also be terminated.

On motion of Haywood, seconded by Frye, the Board voted unanimously to allocate a new Medical Office Assistant position (Grade 57) for the Health Department, effective immediately.

Approval of Contract for Energizer to Purchase Dirt from County at Solid Waste Facility

David Townsend, III, Public Works Director, said that the Public Works Department has been working with representatives of Energizer Battery for the past 12 to 18 months on an Energizer project proposing modifying and expanding their existing "high tech" industrial landfill. The location is on five acres of land they purchased in the 1980s from Randolph County. This facility is located within the Solid Waste Facility property. To accomplish project objectives, Energizer Battery will need to purchase approximately 10,000 cubic yards of dirt from our existing Solid Waste Facility property. They have agreed to be responsible for all construction, seeding and mulching of the disturbed area, as well as replanting the trees on the previous "cut over" area of

the Solid Waste Facility. Mr. Townsend said that both parties have agreed on a price of \$1.75 per cubic yard and now needs the approval of the Board.

On motion of Frye, seconded by Kemp, the Board voted unanimously to approve an agreement between the County and Energizer Battery for Energizer's purchase of dirt from the Solid Waste Facility, at a rate of \$1.75 per cubic yard, and to authorize the County Manager to sign the agreement once it is finalized by the Staff Attorney.

Approval of Bid Awards for 2009 Stimulus Scattered Site Housing Grant

David Townsend, III, Public Works Director, said that the Public Works Department sent bid packages to over 15 contractors seeking bids for the first three homes to rehabilitate with the 2009 Stimulus Scattered Site Housing Grant funds. The following bids were opened on April 1, 2010:

Bidder ▼ Home ►	#1 - Iris Hinson 218 S. McCrary St. Asheboro	#2 - Karen Sue Patterson 418 Old Liberty Rd., Asheboro	#3 - Charles Miller 288 Sawyersville Rd., Asheboro
ADL Home Improvements - Lumberton, NC	\$44,900	\$43,300	\$37,150
CD Concepts, Inc. - Lexington, NC	\$52,850	\$51,509	\$47,681
Glenn King Construction - Asheboro, NC	\$39,575	\$39,905	\$33,890
Leonard Cutshaw Bldg & Electrical - Asheboro, NC	\$64,170	\$72,890	\$62,890
Parkspace Construction - New London, NC	\$47,795	\$51,970	\$44,075
Touch Construction - Sanford, NC	\$50,045	\$53,105	\$42,615

On motion of Kemp, seconded by Lanier, the Board voted unanimously to award bids for the first three homes for the 2009 Stimulus Scattered Site Housing Grant to the low bidder, Glenn King Construction, as follows, and at to authorize the Chairman to sign the approved contracts: Iris Hinson home for \$39,575, Karen Patterson home for \$39,905, and the Charles Miller home for \$33,890.

Adoption of Proclamation for Litter-Sweep Week (April 18-May 2)

On motion of Kemp, seconded by Lanier, the Board voted unanimously to adopt a proclamation for Litter-Sweep Week, as follows:

WHEREAS, the North Carolina Department of Transportation organizes an annual spring statewide roadside cleanup to ensure clean and beautiful roads in North Carolina; and

WHEREAS, the spring 2010 LITTER SWEEP roadside cleanup will take place April 17 – May 1, 2010, and encourages local governments and communities, civic and professional groups, businesses, churches, schools, families and individual citizens to participate in the Department of Transportation cleanup by sponsoring and organizing local roadside cleanups; and

WHEREAS, Adopt-A-Highway volunteers, Department of Transportation employees, Department of Correction inmates and community service workers, local government agencies, community leaders, civic and community organizations, businesses, churches, schools, and environmentally concerned citizens conduct annual local cleanups during LITTER SWEEP and may receive certificates of appreciation for their participation; and

WHEREAS, the great natural beauty of our state and a clean environment are sources of great pride for all North Carolinians, attracting tourists and aiding in recruiting new industries; and

WHEREAS, the cleanup will increase awareness of the need for cleaner roadsides, emphasize the importance of not littering, and encourage recycling of solid wastes; and

WHEREAS, the spring 2010 LITTER SWEEP cleanup will celebrate the 22nd anniversary of the North Carolina Adopt-A-Highway program and its 5,750 volunteer groups that donate their labor and time year round to keep our roadsides clean; and

WHEREAS, the LITTER SWEEP cleanup will be a part of educating the children of this great state regarding the importance of a clean environment to the quality of life in North Carolina;

WHEREAS, Governor Beverly E. Perdue proclaimed April 17 – May 1, 2010 as “LITTER SWEEP” time in North Carolina and encourages all citizens in all 100 counties to take an active roll in making their communities cleaner; and

WHEREAS, the Randolph County Board of Commissioners on March 12, 2001, voted unanimously to give blanket approval for waiver of tipping fees at the solid waste facility for the Department of Transportation as they bring in the debris collected during any of their spring or fall Litter Sweep Roadside Cleanup programs;

NOW, THEREFORE, the Randolph County Board of Commissioners join with the Governor and Department of Transportation and also proclaim April 17 – May 1, 2010 as “LITTER SWEEP” time in Randolph County and urge all citizens to participate.

Public Hearing and Approval of Amendments to Unified Development and Solid Waste Ordinances

Hal Johnson, Planning Director, proposed amendments to the Unified Development Ordinance and the Solid Waste Ordinance that will formally transfer Litter Code Enforcement responsibility to the Planning Department. The Unified Development Ordinance (UDO) includes Zoning, Subdivision, Watershed, Flood, and Junk Vehicle regulations. It would now include those provisions currently contained in the Solid Waste Ordinance that provide for enforcement of illegal dumping and anti-littering regulations. Since January 2007, Planning Department Code Enforcement Officers have responded to 626 citizen complaints concerning solid waste dumping. Of these complaints, 360 were cleaned up by the property owner. Of those sites remaining in violation, it takes an average of three to four months to get these cases resolved through the court system. In many cases, this time period can be extended due to court calendars and case delays. By transferring illegal dumping regulations to the UDO, Planning Department Code Enforcement Officers would have the ability to issue civil citations. The UDO would provide a citizen the opportunity to appeal the citation to the Planning and Zoning Board of Adjustment. The UDO requires that the Code Enforcement Officer provide a Notice of Violation prior to the actual issuance of a citation. This gives the citizen a designated time of up to 30 days to correct the violation. The proposed ordinance amendments have been developed in close consultation with the County Attorney and have been reviewed and approved by the Public Works Director.

At 5:35 p.m., Chairman Holmes opened the public hearing on the proposed amendments. Hearing no comments, the public hearing was closed.

On motion of Frye, seconded by Haywood, the Board voted unanimously to amend the Solid Waste Management Ordinance, Section III, to delete current subsections A, B, C, D, E, F, G, and to label the remaining paragraphs of Section III, to A (1, 2, 3), B, C, D, and E. and to amend the Unified Development Ordinance to include Article XVI, Litter Ordinance, Sections I through X, as follows:

RANDOLPH COUNTY--LITTER ORDINANCE-ARTICLE XVI

SECTION I. Authority

This section of the zoning ordinance is enacted pursuant to the authority granted by N.C. Gen. Stat. § 153A-121 and N.C. Gen. Stat. § 153A-132.1.

SECTION II. Administration

The Randolph County Planning Department shall be primarily responsible for the administration and enforcement of this Article. Nothing in this Article shall be construed to limit the legal authority of the County Sheriff's Department, local fire departments, and other authorized agencies in enforcing other laws or in otherwise carrying out their duties.

SECTION III. Jurisdiction

This Article applies to and is enforceable in any part of Randolph County which is outside an incorporated city or town. If requested in writing by a municipality and approved by the County Board of Commissioners, Randolph County may enforce the provisions of this Article inside the corporate limits and/or the extraterritorial planning jurisdiction of that particular political jurisdiction.

SECTION IV. Purpose

The purpose of this ordinance is to promote the health, safety, and welfare of the people of Randolph County; to preserve the dignity and aesthetic quality of the environment of Randolph County; to protect the economic interest of the citizens and residents of Randolph County who are dependent on tourism; and to aid in the promotion of tourism in Randolph County.

SECTION V. Definitions

A. Container: A metal, paper, or plastic receptacle with tight-fitting lid used for the disposal and storage of solid waste.

B. Garbage: All putrescible solid wastes, including food wastes and food containers, animal and vegetable matter, animal offal, carcasses, and recognizable industrial byproducts, but excluding sewage and human wastes.

C. Litter: Any garbage, rubbish, trash, refuse, can, bottle, box, container, wrapper, paper, paper product, tire, appliance, mechanical equipment or part, building or construction material, tool, machinery, wood, motor vehicle or motor vehicle part, vessel, aircraft, farm machinery or equipment, sludge from a waste treatment facility, water supply treatment plant, or air pollution control facility, dead animal, or discarded material in any form resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations. While being used for or distributed in accordance with their intended uses, "litter" does not include political pamphlets, handbills, religious tracts, newspapers, and other similar printed materials the unsolicited distribution of which is protected by the Constitution of the United States or the Constitution of North Carolina.

D. Person: Any person, firm, partnership, corporation, unincorporated association, or other legal entity.

SECTION VI. Litter Regulations

A. No owner, occupant, tenant, or lessee of any property may deposit, store, or permit to accumulate any solid wastes upon his property that is not stored or disposed of in a manner prescribed by this ordinance.

B. The owner, occupant, tenant, or lessee of any property shall remove or caused to be removed all garbage and litter from his property at least once per week.

C. Owners of mobile home parks and multi-family houses (more than two family units) shall be responsible for storage and disposal consistent with this ordinance.

D. Garbage shall be stored only in a container that is durable, rust resistant, nonabsorbent, watertight, and easily cleaned, with a close-fitting, fly-tight cover in place, with adequate handles or bails to facilitate

handling. The number of containers shall be adequate to store one week's accumulation of garbage. Each container shall be kept clean so that no odor or other nuisance condition exists.

E. Litter shall be stored in a manner that will not provide harborage to rodents and vermin and will not create a fire hazard.

F. No owner, occupant, tenant, or lessee of any building or dwelling may leave outside the building or dwelling, in a place accessible to children, any abandoned or unattended icebox, refrigerator or other receptacle that has an airtight door without first removing the door.

G. Solid waste shall be disposed of only in one of the following ways:

- a. In a sanitary landfill approved by the Division of Solid Waste Management;
- b. In an incinerator that has all required local, state, and federal air pollution control permits;
- c. By any other method, including reclamation and recycling processes, that has been approved by the Division of Solid Waste Management; or
- d. In solid waste containers provided by the county.

SECTION VII. Exceptions

This ordinance shall not apply to the following:

A. Any junkyard as defined in Chapter One of the Randolph County Unified Development Ordinance that is properly permitted under Chapter Two of the Randolph County Unified Development Ordinance; or

B. Any junkyard, the operation of which is protected as a lawful nonconforming use under Chapter Two, Article XI of the Randolph County Unified Development Ordinance.

SECTION VIII. Civil Penalties

Any civil penalties assessed pursuant to this Article or pursuant to Chapter Two, Article XIII, Section 8 and 9 of the Randolph County Unified Development Ordinance shall be considered a lien against the property on which the violation occurs until such fine is paid in full.

SECTION IX. Penalty

The County may enforce this Article in accordance with Chapter Two, Article XIII, Section 8 and 9 of the Randolph County Unified Development Ordinance, which sets out both criminal and civil penalties for violations. As outlined in G.S. 153A-132.1, a person in violation of this ordinance may be punished by a fine not exceeding fifty dollars (\$50.00) or imprisoned not exceeding 30 days, or both. Each day or portion thereof of violation shall constitute a separate offense.

SECTION X. Severability

Should any provision of this Article be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the Article as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

Approval of Budget Amendment for Initial Start-up Cost of Transfer of Child Support Enforcement Agency from State to County

Will Massie, Assistant County Manager and Finance Officer, stated that the transition of the Child Support Enforcement program to a County department on July 1 is moving forward. However, there are certain costs that will be incurred in FY2009-10 as we prepare for this responsibility. The following are estimated costs that may be incurred prior to June 30, 2010:

Personnel costs	\$ 3,200
Telephone system	7,800

Computers, circuits, and switches	23,000
July rent to be paid in June	<u>4,000</u>
	\$38,000

Child Support Enforcement is funded 66% from federal reimbursements. The County share can be provided from additional interest received from Clerk of Court collections so far this year.

On motion of Frye, seconded by Haywood, the Board voted 4-1, with Lanier opposing, to approve Budget Amendment #34 for the initial start-up cost of the transfer of the Child Support Enforcement Agency from the State to the County, as follows:

2009-2010 BUDGET ORDINANCE		
General Fund—Amendment #34		
Revenues	Increase	Decrease
<i>Restricted Intergovernmental</i>	\$ 25,080	
<i>Investment Earnings</i>	\$ 12,920	
Appropriations	Increase	Decrease
<i>Child Support Enforcement</i>	\$38,000	

Adoption of FY 2010-2011 Budget Schedule

On motion of Kemp, seconded by Lanier, the Board voted unanimously to adopt the FY 2010-2011 Budget meeting schedule, as follows: Monday, May 24, 6:00 p.m.--Proposed Budget Presented to Commissioners; Monday, June 14, 2:00-2:30 p.m.--Randolph County Schools, 2:20-2:40 p.m.--Asheboro City Schools, 2:40-3:00 p.m.--Randolph Community College, 3:00-3:30 p.m.--Outside Agencies Requesting Funding, 3:30-5:00 p.m.--All County Departments, 6:30 p.m.--Public Hearing on Budget; Monday, June 21, 6:00 p.m.--Approve Close-out Budget Amendments for FY 09-10, Adopt School and Fire District Tax Rates, Adopt Fee Schedules, Commissioners Deliberation on Budget, Adoption of Final Budget.

Special Meeting Set

On motion of Haywood, seconded by Frye, the Board voted unanimously to set a special meeting at 1:15 p.m. on April 15 at Trinity City Hall for an ethics training class.

Closed Sessions—Economic Development and Acquisition of Real Property

At 5:44 p.m., on motion of Frye, seconded by Kemp, the Board voted unanimously to go into closed session to discuss matters relating to the location or expansion of business in the area, pursuant to N.C.G.S. 143-318.11(a)(4) and to establish or instruct the staff or agent concerning the negotiation of the price and terms of a contract concerning the acquisition of real property, pursuant to N.C.G.S. 143-318.11(a)(5).

Regular Session Resumed

At 6:12 p.m., the Board returned to regular session.

Recess

At 6:12 p.m., the Board took a short recess.

Regular Session Resumed

At 6:38 p.m., the Board returned to regular session.

Action on Determination of Substantial Change of Previous Rezoning Request

Hal Johnson, County Planning Director, said that on March 23, Thomas Shean submitted a redrawn sketch plat of his previously considered Jerico Road subdivision proposal, and requested that the County Commissioners reconsider his request for rezoning. The original request that was denied by the County Commissioners on March 1, 2010, was as follows:

THOMAS SHEAN, Trinity, North Carolina, requested that 33.49 acres located on Jerico Road, Back Creek Township, be rezoned from RA to CVOE-CD. Tax ID# 7723361181. Secondary Growth Area. The proposed Conditional Zoning District would have specifically allowed a 19-lot residential subdivision for site-built homes only with a minimum house size of 1,200 sq. ft.

Mr. Johnson said that Article XII, Section 4-L, Randolph County Zoning Ordinance, states, “No such proposed changes to the zoning ordinance if denied by action of the Board of County Commissioners may be resubmitted within a period of one year from the date of denial by the County Commissioners, unless the Board of County Commissioners shall unanimously find that changing conditions in the area or new information concerning the property requested for rezoning warrant a resubmission for change in the zoning map.”

Mr. Johnson presented Mr. Shean’s revised request, as follows:

1. Total of 14 lots on 32 acres
2. Minimum house size of 1,400 sq. ft.
3. Lots 1-5 approximately 2 acres with increased frontage
4. Lots 6-8 approximately 3 acres with increased frontage
5. Lots 9-10 approximately 5 acres
6. Lots 11-14 approximately 1+ acres
7. The new design will not require the grading of the large hill fronting lot 9

Mr. Johnson told the Commissioners that if the Board **unanimously** finds that this is a substantial change from the March 1 request, another public hearing will be scheduled for the Commissioners May 3, 2010 meeting. Mr. Shean would be required to have his original survey redrawn to reflect the changes he has submitted in writing.

County Attorney Darren Allen advised that he did not feel that the new changes were substantial enough to warrant a second hearing according to the zoning ordinance. He said that a substantial change would either be completely new information about the property that was not available at the March meeting and/or some major change to the community. The changes that Mr. Shean has proposed would not meet a court definition of “substantial” in his opinion. He also advised that if the Commissioners voted to rehear the case without specifically identifying substantial differences in the new plan, opponents to the rezoning might be able to successfully argue in court that the Board’s decision was arbitrary and capricious.

To initiate discussion, Commissioner Kemp made a motion to rehear Mr. Shean’s new request, due to determination that the new changes were, indeed, substantial. Commissioner Lanier seconded the motion. Following lengthy discussion, the Board voted 3-2, with Holmes and Haywood opposing to find that Mr. Shean’s new request was substantial and to rehear his request at the May meeting. However, according to the zoning ordinance, since the vote to rehear a

previously denied zoning request must be unanimous, the request was again, denied, and Mr. Shean will be required to wait at least one year before he can seek rezoning on this same request.

Rezoning Public Hearing

At 7:00 p.m., the Board adjourned to a duly advertised public hearing to consider rezoning requests. Hal Johnson, Planning Director, presented the following requests, and Chairman Holmes opened the public hearing for comments on each request and closed it before taking action on the requests.

1. **MERIC, INC.**, Randleman, North Carolina, is requesting that 8 acres (out of 36.80 acres) located at 9755 US Hwy 220 Bus N, Level Cross Township, be rezoned from HI-CU to HC-CD. Tax ID# 7767261278. Randleman Lake Watershed. Primary Growth Area. The proposed Conditional Zoning District would specifically allow the existing facilities to operate a flea market, auctions, and seasonal carnival as per site plan. The Planning Board reviewed this request at public meeting on March 23, 2010, and recommended that this request be approved by a vote of 6 to 1.

The Planning Board found the following policies within the 2009 Growth Management Plan that support determination of consistency with the adopted plan with this recommendation:

Policy 4.2. Highway oriented commercial uses should be clustered along segments of arterial streets and contain land uses that are mutually compatible and reinforcing in use and design. They should be designed in a way that minimizes signage, access points and excessive lengths of commercial strip development.

Board of Commissioner Resolution Adopting the Growth Management Plan, Policy #4. Ensure the opportunity for landowners to achieve the highest and best uses of their land that are consistent with growth management policies in order to protect the economic viability of the County's citizens and tax base.

Eric Davis, owner of the property, spoke in support of the request, saying that this proposal will provide new job opportunities. He said there would be no travel trailers allowed and no overnight camping. If carnival activities are held, there will be no activities allowed on Sundays until after 1 p.m. Mr. Davis said that he understands the conditions and agrees with them.

Antonio Palazzolo, 5768 Big Oak Way, Randleman, spoke in support of the request, saying that there is nothing worse than the appearance of a ghost town and that this plan would stimulate the community.

Ronald Cooke, 136 Lawrence Smith Dr., Randleman, spoke in support of this request.

On motion of Frye, seconded by Lanier, the Board voted unanimously to approve the request of Meric, Inc., as determined consistent with policies contained within the adopted Growth Management Plan and as outlined in the Planning Board recommendations.

2. **JOEL BRADY**, Asheboro, North Carolina, is requesting that 3 acres (out of 5.80 acres) located on Pilot Mountain Road, Elbert Brady Estate tract 2, Grant Township, be rezoned from RA to LI-CD. Tax ID# 7699525951. Secondary Growth Area. The proposed Conditional Zoning District would specially allow the operation of an automotive salvage yard as per site plan. The Planning Board reviewed this request at public meeting on March 23, 2010, and recommended unanimously that this request be denied. Mr. Johnson said that the applicant currently is in

violation of the junked vehicle ordinance and is proposing to bring some of the vehicles in violation to the subject location.

The Planning Board found the following policies within the 2009 Growth Management Plan that support determination of consistency with the adopted plan with this recommendation:

Policy 3.1. Industrial development should be on land that is physically suitable and has unique locational advantages for industry. Advanced planning for the identification of such land should be encouraged.

Policy 3.3. Heavy industrial sites should be separated from nonindustrial areas by natural features, green belts and/or other suitable means.

Policy 3.11. New rural industrial development shall be located in areas of the site that would lesson impact to adjoining residential and agricultural lands.

Joel Brady, applicant, spoke in support of his request, saying that the closest neighbor to the subject location is the lady up the hill, but there wouldn't be any cars near her. He said he takes parts off cars to fix other cars and he just hangs onto the junked vehicles. He argued that the junked vehicles wouldn't be anywhere near the neighbor's well and said there is no stream nearby. He also said that no noise is produced from his business and that he takes in only 8-10 cars per year.

Kim Sumner, 2892 Pilot Mountain Rd., spoke in opposition to the request, saying that she lives just south of Mr. Brady's property. She distributed pictures of all the junked cars, noting the close proximity some of the vehicles are to her property. Ms. Sumner said that the junked vehicles are an eyesore and that they are decreasing the property value of her home that she built in 2001. She also has concerns that proposed buffers won't be met. She argued that Mr. Brady is not in compliance now with zoning requirements, and it's very unlikely that he will comply with any new restrictions. Ms. Sumner said that for every vehicle that leaves the property, five more come in.

On motion of Kemp, seconded by Frye, the Board voted unanimously to deny the request of Joel Brady, as determined consistent with policies contained within the adopted Growth Management Plan and as outlined in the Planning Board recommendations.

Adjournment

At 7:35 p.m., there being no further business, the meeting adjourned.

J. Harold Holmes, Chairman

Darrell L. Frye

Phil Kemp

Arnold Lanier

Stan Haywood

Cheryl A. Ivey, Clerk to the Board