

April 3, 2006

The Board of Commissioners of Franklin County, North Carolina, met in Regular Session at 7:00 P.M. in the Commissioner's Meeting Room located in the County Administration Building with the following Commissioners present: Chairman Sidney E. Dunston, Vice-Chairman Lynwood D. Buffaloe, Commissioners Harry L. Foy, Jr., Raymond A. Stone, Jimmie R. Gupton, Donald C. Lancaster, and Robert L. Swanson.

1. CONSENT AGENDA

Upon the motion by Commissioner Buffaloe, seconded by Commissioner Swanson, with all present voting "AYE", duly carried approval of the following consent agenda items:

- A. Approval of March 13, 2006 minutes.
- B. A Proclamation for "Guardian Ad Litem Child Advocate Day."
- C. Name change of the Franklin County Airport to Franklin County Regional Airport.

2. COMMENTS FROM THE PUBLIC

Jan Sikes, 140 Creek, Louisburg, NC

Sikes addressed the demise of Franklin County's countryside. She spoke in favor of preserving wildlife, natural resources and Franklin County's heritage. Sikes asked the Board to consider these ideas when making future decisions pertaining to growth, development and rezoning issues.

Commissioner Stone commented on the agricultural protective districts that have already been formed protecting participating farms from any encroachments.

3. FRANKLIN COUNTY BOARD OF EDUCATION: PURCHASE OF PROPERTY

The County Manager introduced the Board's of Education request to purchase two parcels of land:

1. ½ acre lot on Howard Harris Road in Franklinton. The negotiated purchase price for this property is \$17,000.
2. ½ acre lot on Bunn Elementary School Road. This lot has a doublewide mobile home on it at this time that is in good condition. The negotiated purchase is \$55,000.

Commissioner Gupton feels the parcel of land in Bunn is expensive. County Manager, Chris Coudriet, commented that at the time of revaluation, the ½ acre tract of land and the home was valued at \$42,523. Commissioner Foy inquired about future uses for the property. Mr. Coudriet responded by saying the School Board is purchasing property, as it becomes available, to help accommodate future growth. The School Board has no plans to use the mobile home. A motion for approval was made by Commissioner Buffaloe and seconded by Commissioner Lancaster with Dunston, Swanson and Stone voting "AYE" and Gupton and Foy voting "NO". The motion carried 5 to 2.

4. CAMPO TRANSIT PLANNING PROCESS

Pat Young, Director of Planning, presented a PowerPoint presentation providing an overview of transit issues associated with the CAMPO transportation planning process.

Background

The Capital Area Metropolitan Planning Organization (CAMPO) is currently updating its Comprehensive Transportation Plan (CTP)

- CTP is intended to develop a common, long-term vision between CAMPO jurisdictions in regards to future transportation needs
- Addresses

- Highways/Roadways Improvements
- Public Transportation/Rail (Public Transit)
- Bicycle / Pedestrian Improvements
- Public Transit Improvements and Future Needs (through 2030) Currently Being Evaluated by CAMPO
 - Public Forum for Eastern Wake, Johnston and Franklin to be held on April 11, 2006
 - County Manager, Planning Director, KARTS Director, and Aging Director will attend
- “Public Transit”
 - Transportation other than privately-owned vehicles operated by the user or close family member (s)

Why Does Transit Matter?

- Access and mobility within the County and between the County and Wake/Durham/Orange Counties are essential for continued and improved economic vitality
- Many elderly, disabled, and/or low-income persons are “transit captive” (no access to private vehicles) and rely on family, friends, church or public transportation for access to essential services
- Vast majority of employed persons in the County commute to work alone (78%)
- Less than 1/10th of 1% used public transportation to go to work
- Automobile travel will continue to be dominant mode of transport for foreseeable future
- Relatively large percentage of persons carpool to work in Franklin County
 - (17% of employed persons)
 - Suggests “pent up” demand for transit options
- Approximately 58% of County workers commute out of Franklin County for employment
 - Suggests significant market for clean, affordable, efficient transit into Wake/Durham/Orange areas
- Large number of “out-commuters”, rising gasoline costs, long commute times (average 40 minutes) and high percentage of car-poolers suggest existing demand for transit options
- The above trends are likely to accelerate in the future, suggesting larger transit demand

Status Quo

- Kerr Area Rural Transit System (KARTS) provides transit service to Franklin County citizens
 - Trips to Raleigh, Durham and Chapel Hill three times weekly coordinated through Dept. of Aging
 - Fees are subsidized/offset by Franklin County Dept. of Aging and by KARTS for qualified low-income residents and senior citizens
 - Dept. of Aging organizes special purpose trips to desired locations (e.g.: shopping trips to outlets in Alamance County)
- Kerr Area Rural Transit System (KARTS) provides transit service to Franklin County citizens
 - KARTS provides fee-based “demand/response” services in the County to Henderson/Vance County, Wake County, Durham County and Orange County

- These require multiple “pick-ups”
- Some taxi services operate in the County

Transit Needs / Issues

- “Fixed route” service within County and/or between County and Wake/Durham/Orange
 - “Fixed route” means that there is a recurring, scheduled, consistent route to and from given points
 - Several options
 - KARTS and KARTS affiliate bus and/or van service (preferred)
 - County-operated bus and/or van service (not preferred)
 - Tie-in with Triangle Transit Authority (TTA) and/or Capital Area Transit (CAT) through proposed park-and-ride lots in Wake Forest and/or Zebulon (possible)
 - Federal and State grant offsets will be a significant factor in preferred options
- Coordination of carpools
 - Can be accomplished through KARTS
- Southeast High Speed Rail (SEHSR) speed rail service is being evaluated by NCDOT and the USDOT from Richmond, Virginia to Raleigh
 - Is intended to serve as alternative to air travel – very limited number of stops between Raleigh and Richmond with
 - Follows CSX Rail Corridor – final Environmental Study complete in 2008
- Policy/UDO Amendments to Facilitate Transit
 - Requirement of transit easements and/or Park and Ride lots for bus/van access in new commercial centers
 - Transit element of Comprehensive Land Use Plan
 - Identification of future bus routes, rail corridors, transfer facilities, transit oriented developments, major bus stops, etc.
 - Focus is on reserving routes and transfer areas (e.g.: bus stops) for future use, as needed
- Transit Use and Need Survey

Close coordination with Kerr-Tar RPO, KARTS and CAMPO on Transit Issues

Young encouraged the Board to attend a regional forum for the Eastern area of the CAMPO region at Knightdale Town Hall located at 950 Steeple Square Court on Tuesday, April 11, 2006 between 2 and 4 P.M.

5. FINDINGS OF FACT: DONNIE RUDD CASE

County Manager, Chris Coudriet, made a presentation on a collection of facts associated with the outcome of the Donnie Rudd case.

Issues Addressed

- Background
 - court action
 - probation

- To whom was the money due?
 - process
 - defect of process
- Payment to the taxpayers
- Recommendation
- Mr. Rudd initiated “in rem” procedures as part of a tax collection strategy
 - \$50 fee assessed to the taxpayer
- Fee authorized by state statute and by Board policy
- \$295,238 collected through “in rem” fees
 - 5,904 taxpayer accounts

Background: Court Action

- Mr. Rudd pleaded guilty December 3, 2001 (see Exhibit A)
 - seven counts of Failure to Disclose on Settlement
 - prison and 5 years probation
 - ordered to pay restitution to the county: \$60,000
- Matter addressed in Superior Court locally
- District Attorney’s argument
 - county was the victim
 - county entitled to any restitution payments
- \$3,188 paid to date

Background: Probation

- Probation expires December 2006
- Mr. Rudd has been cited for a probation violation
 - poor performance in restitution payments
- Due in court April 24, 2006
 - probation revoked (?)
 - probation modified (?)

To Whom Was the Money Due?

- District Attorney argued the county was due the money
- Statutory authorization to collect an “in rem” fee
 - Mr. Rudd did not follow proper procedure

To Whom Was the Money Due: The Process

- Resolution adopted August 3, 1987 (see Exhibit B)
 - board of commissioners took the action
 - authorized “in rem” foreclosures
- Tax collection policy adopted April 2, 1990 (see Exhibit C)
 - provided for the “in rem” procedures
 - established \$50 “in rem” fee

To Whom Was the Money Due: Defect in the Process

- Mr. Rudd mailed notices to delinquent taxpayers
 - collected “in rem” fees along with the delinquent taxes
- Delinquent taxes paid to the county; “in rem” fee paid to Mr. Rudd upon his order

- Statutory process expects a title search and notification to property owners and lien holders of the impending action
 - \$50 was to cover those actions
 - actions generally were not taken
- The fee likely was subject to legal challenge

Payment to the Taxpayers

- The question: “Can the board lawfully expend county funds in favor of the taxpayers when a statutory remedy was available to the recover the monies paid but was not sought in a timely manner by the taxpayer?”
- The answer: Legally, no.
- NCGS 105-381 defines authority for tax refunds (see Exhibit E)
 - limited circumstances
 - officially petition the board for a refund within 5 years of tax due or 6 months from payment made
- No legal basis under the law for payment to the taxpayers at this time
- Payment of funds would be unlawful (see Exhibit F)
 - NCGS 105-380 sets forth prohibition of issuing funds except where authorized

Recommendation

- Do not pursue issuing refunds to the delinquent taxpayers: no legal basis
- Mount efforts to ensure Mr. Rudd’s compliance with the court order
- Encourage extension of probation for 3 years if restitution obligation is not met by December 2006

Commissioner Foy asked why taxpayers weren’t told specifically about the statutory remedy that was available to recover the monies when the issue first became known.

County Attorney Darnell Batton stated, according to past minutes, three public speakers appeared before the Board asking that the money be given back to the taxpayers. To his knowledge, no one petitioned pursuant to the statute.

Commissioner Foy stated it was a shame the public was likely unaware of the procedure to file a grievance or complaint to retrieve their money. He also questioned the attorney’s legal opinion of whether or not the money should be awarded to the county or to taxpayers.

Batton confirmed the county passed a resolution to collect “in rem” fees and the specific collection of a \$50 fee. He stated if proper procedures had been followed, the county would be entitled to the money. However, proper procedures were not followed. Batton said it is the responsibility of citizens to file a petition for a refund within six months of paying their taxes.

Commissioner Stone asked the county manager to clarify the legality of collecting “in rem” fees and whether or not it was lawful for Donnie Rudd to do so.

Batton said the court’s criminal conviction was determined because Rudd did not report the fees collected to the county government, as he was required.

Commissioner Stone called further discussion of the matter a “political boondoggle” and encouraged the Board not to revisit the matter.

Commissioner Lancaster asked Batton to confirm there is no legal basis for the county to give the money back to taxpayers and said the county needs to have safeguards in place to prevent similar future occurrences. He wants to make certain Rudd is held accountable for his actions as much as possible and that restitution is paid.

Commissioner Dunston inquired about the extent of the board's authority in making certain restitution is paid by Rudd.

Mr. Batton stated that in this criminal case, the county holds the status of "victim" just like any other victims in a crime. He said the Board can solicit input from the District Attorney's office and ask the District Attorney to take certain actions on the Board's behalf, but all action is left to the court's discretion. No action can independently be taken as a Board of County Commissioners, except as the status of a victim in a criminal case.

Commissioner Swanson wanted the record to show the Board never voted for Donnie Rudd to keep any of the \$50 "in rem" foreclosures. He says the Board voted to collect the fees, not to keep them.

6. BOARD, MANAGER AND CLERK'S COMMENTS

Commissioner Foy:

Commissioner Foy nominated Mr. Danny Pearce to serve on the Tourism Development Authority. Upon motion by Commissioner Foy, seconded by Commissioner Lancaster, all present voted "AYE" and the motion duly carried. County Manager Coudriet commented that one nomination by Chairman Dunston remains for a representative who is associated with the collection of the occupancy tax.

Commissioner Stone:

Commissioner Stone attended the COG Board's March 23rd meeting where a discussion was held concerning issues vital to Franklin County. The COG Board continues a search for a new director.

Commissioner Buffaloe:

Commissioner Buffaloe reported as of April 1st, 2006 Franklin County has assumed the operation of the Franklin County Regional Airport under the direction of Leigh Osborne and her staff. The FBO, First In Flight, is no longer at the airport by their agreement to leave. Any restitution will be subject of the county's arbitration process in the future.

Commissioner Swanson:

Commissioner Swanson reported on a successful meeting with the Franklin County Social Services Board in February.

Commissioner Gupton:

Commissioner Gupton stated he attended the same Social Services Board meeting.

Commissioner Lancaster:

Commissioner Lancaster reported on a ribbon cutting ceremony he attended at Sheetz in Youngsville. He feels the business will be a good corporate citizen to Franklin County.

Commissioner Dunston:

Commissioner Dunston also commented on the grand opening of the Sheetz store and feels it will help increase Franklin County's tax base.

County Manager Coudriet:

Mr. Coudriet reported the North Carolina House Medicaid subcommittee adopted a 65 million-dollar savings plan on March 28th that will directly help counties in terms of Medicaid relief. That would be generated by state cost savings measures. Specifically \$30.4 million will cap county expense at the current year and \$34.6 million would be used for targeted relief for counties based on their Medicaid eligibility percentage in terms of population. The Association of County Commissioners early estimates of the bill would be about \$636,000 for next year.

The TDA (Tourism Development Authority) will meet April 12th for it's first organizational meeting and basic budget discussions.

Mr. Coudriet addressed water quality issues and says the county is trying to be responsible relative to policy improvements. A work group has been formed to address well water, the county's supply of water and policy improvements head-on.

Mr. Coudriet reminded the Board budget books had been issued. The Board of Equalization and Review will meet April 10th.

Upon motion by Commissioner Lancaster, seconded by Commissioner Gupton, with all present voting "AYE", the meeting was declared adjourned.

Sidney E. Dunston, Chairman

Kristen G. King, Clerk to Board