

**MINUTES OF BUNCOMBE COUNTY BOARD OF COMMISSIONERS'
REGULAR MEETING OF JANUARY 6, 2009 AT 4:30 P.M.**

BE IT REMEMBERED: That the Board of Commissioners met in regular session on January 6, 2009, in the Commissioner Chambers, Room 204 of the Courthouse in downtown Asheville, North Carolina at 4:30 p.m. where and when the following business was transacted:

The Chairman called the meeting to order with the following members present:

David Gantt, Chairman
Bill Stanley, Vice Chairman
K. Ray Bailey, Commissioner
Holly Jones, Commissioner
Carol Peterson, Commissioner

Staff present were: Wanda Greene, County Manager; Mandy Stone, Assistant County Manager; Jon Creighton, Assistant County Manager; Donna Clark, Finance Director; Kathy Hughes, Clerk to the Board; Mike Frue, Assistant County Attorney; Joe Connolly, County Attorney.

CALL TO ORDER

PLEDGE OF ALEGIENCE

INVOCATION

Pastor Greg Metcalf, Westwood Baptist Church gave the invocation.

DISCUSSION/ADJUSTMENT/APPROVAL TO FOLLOW AGENDA

Commissioner Peterson moved to approve the consent agenda as presented.

- **Approval of Minutes of December 16, 2008 Regular Meeting**
- **Release Report**
- **Resolution Approving An Amendment to An Installment Financing Contract**
- **Capital Projects Ordinance**
- **Parking Deck Capital Project Ordinance**
- **Special Revenue Capital Project Ordinance**

Commissioner Stanley seconded and the motion passed 5-0.

PUBLIC HEARING

- **Rezoning Request Scott Robinson PIN 9669.11-66-8464 R-1 Single Family Residential to R-3 Residential**

The Chairman opened the public hearing at 4:45 p.m. Bryant Webster, attorney for the petitioner, presented his clients request to rezone from R-1 to R-3 to accommodate a single wide mobile home. He said that the Planning Board approved the request.

There was no public comment.

The public hearing was closed at 4:47 p.m.

Vice Chairman Stanley moved to approve the recommendation of the staff and approve the rezoning as requested. Commissioner Bailey seconded and the motion passed 5-0.

OLD BUSINESS

- **I-26 Design Alternate**

The Chairman said that the Board would have two presentations from Chamber of Commerce and Asheville Design Group and would take public comment on the issue.

Commissioner Jones moved to remove the topic from table and open for discussion. Commissioners Stanley seconded and the motion passed 5-0.

Mike Goodson, County employee and member of the I-26 Connector Committee, said that the Department of Transportation's (DOT) charge is to get from point A to B in the safest manner possible. Their concern is transportation, safety, system linkage and capacity. They want to improve the existing deficiencies. He said that the Burton Street community is in Section A and alternate 2 spares the area. Alternate 3 affects the area up to Fayetteville Street; Alternate 4 spares this community; Alternate 4B affects the area up to Saratoga Street. He clarified the timeline targets from the Department of Transportation stating that their gala event is scheduled for 2010 but they have said that they will pick the final alternate this summer. He said that in the last presentation he mention a trailer park that is a one owner parcel with 80 units. He said that 18 units will be affected by Alternatives 2, 3 and 4. Alternative 4B will not affect that area.

Commissioner Jones asked when the draft EIS will be complete. Mr. Goodson said that there will be a supplement to the draft EIS in July of this year, a public hearing in August and November. Commissioner Jones questioned how the DOT could pick an alternate in the summer prior to the EIS being complete and stated that it would be appropriate to have a completed draft EIS and hearing prior to that decision.

Commissioner Gantt asked what impact the Board's recommendation would have on the DOT's final decision. Mr. Goodson said that DOT takes this into consideration but the Board's recommendation is not a binding opinion. They want to hear from the public and government but they have a mandate on what they have to accomplish.

The Board viewed the video visualizations on I-26 Alternates.

Rick Lutovsky, President and CEO of the Chamber of Commerce, presented why the Chamber endorsed Alternate 3. He said that they felt Alternate 3 was a clear choice without attention to cost. He gave statistics that suggest the additional bridges will add an additional 5.6 million additional driving miles for commuters over alternate 4B. He said that more property will look at the underside of bridges and not be developable and 4B will hurt the possible development of the Westgate area. He said that the DOT had worked with the Chamber for 10 years and participated in hearings and engineering design and had been balanced and fair to everyone. He said that elevated highways across the Country are being demolished because they do not work and are old school design.

Joe Mancozzi, Chairman of the Asheville Design Center, said he had worked on the project for 4 years. He said that the document showing 4B is a draft document and more supplements will be presented. He said that Alternate 3 would not allow the transformation

of Patton Avenue into a small community bridge and walk able community. He said that the final EIS will have a huge impact on the final document and suggested that all the information be in before a decision is made.

John Carroll, made remarks included in the record on behalf of CIBO.

Ben Pace said that the City stopped the beltway that should have been approved and he wants something done now. He said that the project could be lost if the alternate is not chosen soon.

Andrew Houston, a retired federal and state local developer, said he had a lot of experience and agrees with the Design Center's critic of the options. He said that I-26/ 240 separations are imperative and the Patton Avenue main street corridor will be a great core activity that is missing now. The land use opportunity is a true vision.

Leah Karpen made remarks that are attached to the minutes in their entirety.

Denise Holston said that he and his wife own the Crown Plaza Resort. He said that 9 years ago they purchased the Holiday Inn Airport and today they have 1,600 employees. He said that they have big plans for the property and were opposed to all options except Alternate 2 which does not impact his property.

Vivian Conley, resident of Burton Street said that Alternate 3 will impact her neighborhood on four streets. She is concerned about the people who own their homes and will be displaced. She said they were working to get rid of the drug traffic and improve the neighborhood.

Lou Bisette said he got involved in the connector in the 1980s and has worked on many commissions toward getting this done. He said that the funding allocation could be lost again. He did not have a favorite alternate but urged that a decision be made.

Vinny Davidsion from the Burton Street community said she was speaking up for the residents that would be facing a noise wall and those that are elderly and would have to be moved. She said that the Burton Street area is an historic area and they don't want their community to be destroyed.

Grace Barron who moved here in August said that the Burton Street neighborhood is transforming and there are new homes. She wants the area to be saved.

Eva Richie from Hendersonville said that the issue was not about a road but is about a generational change. She said that the new generation wants community. Alternate 3 is about the past and Alternative 4b is about the future.

Douglas Rulie with the Southern Environmental Law Center, said that the Community Coordinating Committee that worked on the connector alternates represented many different groups and came up with principles that the community wanted in the design. He said that alternative 3 does not implement their principles and is a significant step backward and away from consensus. He noted that the Chamber and the Design Center never met to discuss ideas.

John Reed , President of the Civitan Club read a resolution on behalf of the Club that is included in the minutes.

Sage Linden asked that the Board endorse Alternate 4B and bikable options.

Dewayne Barton from Burton Street said that the residents were trying to improve the area. He said that disruption in the area would hurt this renewal. He said that a lot of folks think that talking to the Commissioners is a waste of time.

Stephanie Pankiewicz made comments that are attached to the minutes.

Gordon Smith reviewed the positive aspects of Alternative 4B including the fact that it complies with 2025 plan for the City of Asheville.

Scott Jackson asked that the Board endorse Alternate 4B because it protects Burton Street; creates connectivity from downtown to West Asheville; has a positive tax base enhancement; keeps contiguity and returns land to downtown.

Steven Waters said that the house that will be taken by Alternate 3 was his grandmothers and they worked hard for the home. There would be a wall where the house is now.

Joel Adams said he is a small business owner who was quietly opposed to the open cut. He said that he is in support of Alternative 4B.

Keith Thompson read an email that he had previously sent to the Commissioners and is attached to the minutes.

Jeff Frushey from Fayetteville said he is opposed to Alternate 3 and in support of the Burton Street community.

Mike Suel, President of Asheville On Bikes, made comments that are attached to the minutes.

Joe Karney said that he has read the City's 2025 plan and Alternate 4B would work for that plan. He said that 4B intersects and interjects perfectly with the master plan.

Alan Robinson said that he was a design engineer for large water fountains and familiar with the process of design development. He said that Alternate 4B meets the needs of the community.

Clare Hanrahan said that governing with integrity means adopting Alternative 4B.

Alan McQuinn talked about the process and said that the meeting seemed immature. He said that Alternates 2 and 3 were not acceptable to the community and that the money spent to gather information and redesign an alternate is a great thing but there should be no rush to judgment.

Jerry Rice spoke in favor of not building the noise walls. He said that there are 8 lanes of traffic in Enka with a noise wall. He said that the county voted for no zoning but the county has zoning. He said that the people have spoken and he asked if they would listen to the people. He said that he did not like Alternate 4B and the 4 bridges but when the community

is asked and they are a part of the recommendation it should be taken.

Evite Jollies from Fayetteville Street said that all her neighbors are older and she was opposed to anything that would disrupt the community. She was in favor of a new roadway. She is for alternative 4B.

David Wheeler said that primary question is of vision. He asked the Commissioners to take the long view because this would be important to the area for many years. He said that Alternate 4B is the best solution.

Mike Fryer questioned how much more Alternate 4B would cost over the other alternates. He said that the bridge is old and we have lost money many times. Whatever needs to be decided needs to be done now.

Commissioner Peterson moved to adopt Alternate 3. Commissioner Stanley seconded the motion.

Commissioner Jones said that the malfunction junction needs to be fixed soon. She said that DOT should be commended for working with Asheville Design Center and Fig (engineering firm). She said that the video was fabulous and thanked them for sending that visualization. She said she was frustrated with the urgency of the decision without enough information to understand the timeline and deadlines of the DOT. She commended the community for working on this project from all walks of life and for coming out to express their feelings. She thanked Burton Street for working within the community to turn that community around. She said that any legitimate issues with 4b could be addressed. She said that she would not support Alternative 3 and given the chance would make a motion to support 4b. She suggested that folks meet with the Chamber of Commerce and keep talking to NCDOT.

Commissioner Peterson said that it was time to make a decision and move on. She said that the Chamber of Commerce represented 2100 members and had a good idea of how people felt about the designs. She had seen the design center presentation several times and appreciated what they had done and how they have put their heart in it. Commissioner Peterson said that it was important that the Board make a statement now.

Commissioner Bailey said that there had been no pressure from any group to support Alternate 3. He said that this is not the first time he had been exposed to the alternates and felt that none of the four were perfect. He had visited the offices of the design center and knew that they were passionate about what they were doing. He had heard from community members who said they want either 2 or 3 because of cost, time of construction and getting from point a to point b and moving I-26 traffic across town. He said he would support Alternate 3 with a proviso and the County asks that DOT revisit the impact to Burton Street and make as minimal impact on Burton Street as possible if Alternate 3 is chosen.

Commissioner Stanley said that he had heard about this construction for more than 20 years. He said that NCDOT will do what they want to do and they don't think people who live west of I- 77 live in North Carolina. He said that he would support the Burton Street folks.

Chairman Gantt thanked everyone for the time spent stating that he was impressed with the effort on this project. He reminded everyone that this vote was an advisory vote. He felt

that the decision must be made now and he was in support of Alternate 4b. He said that he did not want to separate west Asheville from the City and that planning for the community must be considered as well as the City's 2025 report and their leaning toward the 4b option. He said that everyone was in favor of Burton Street no matter what alternate was chosen.

The motion of Commissioner Peterson was approved as follows:

AYES: Commissioners Peterson, Bailey and Vice Chairman Stanley.

NOES: Commissioner Jones and Chairman Gantt

Commissioner Jones left the meeting at this time.

NEW BUSINESS

- **Soil and Water Conservation Easement (Everett Farm)**

John Ager, Chairman of the Farmland Preservation Board, presented a conservation easement request for a farm owned by David and Kimberly Everett who will make a 100 percent donation of value (\$1.1 million) for the easement. Mr. Ager asked that the Board approve the payment of \$25,000 to cover the legal fee cost for this easement.

Mr. Everett said that this donation was about cultural heritage. It was a working farm of 123 acres with 55 acres in cultivation. Commissioner Stanley moved to approve the funding for the payment of fees for this easement up to \$25,000. Commissioner Peterson seconded, and the members present unanimously approved the funding request. *Pursuant to Section VIII., Procedural Motions, subparagraph B. 18., Duty to Vote, of the Rules and Procedures for the Board of County Commissioners, Commissioner Jones' unexcused absence from the meeting at the time of the vote is considered a "refusal to vote (without just cause) [and] shall be recorded as an affirmative vote.* Therefore, the motion passed 5 - 0.

Commissioner Jones returned to the meeting.

- **Pack Square Conservancy Budget and Design Update**

Tim Flora, County Auditor, gave the financial history and update from an audit that he completed which is attached to the minutes. He said that the audit looked at three areas for compliance of original agreement and budget process for financial control. He found 4 areas of non-compliance with the City/County agreement. These issues are outlined in the attached report.

Carol King, Chair of the Pack Square Trustees of the Conservancy, thanked the Board for their part in the park. George Briggs, member of the Pack Square Board, gave an update on the construction of the park stating that much of it will be finished in 2009. Charles Russell, Treasurer of the Conservancy, gave the historical financial data on the conservancy. He said that they have \$15 million in resources through October of 2008. Guy Clerici, Attorney for the Conservancy and current board member, gave the timeline for completion of the project which is attached with the minutes. Larry McDevitt, member of the Conservancy, gave an update on the fund raising stating that they need a minimum of \$4 million to finish construction and \$1.5 for the endowment. He said they are pursuing organization gifts to be completed by March and will be doing public fund raising. Mr. McDevitt said that one of the difficulties they are currently facing is construction of the pavilion and will make a decision soon. Construction of the pavilion at this time would not be good for the developers and should be done after the park is complete. This will come back to the board at a future meeting for an approval of the budget.

BOARD APPOINTMENTS

Commissioner Peterson nominated **Bill Stanley** to serve as the **Legislative Liaison** for 2009-10. Commissioner Jones seconded and the motion passed 5-0.

Commissioner Peterson nominated **Mike Frue to serve as the Industrial Facilities and Pollution Control Financing Authority**. Commissioner Jones seconded and the motion passed 5-0.

ANNOUNCEMENTS

- *The Board will hold a retreat on January 9 and 10 beginning at 8:30 a.m. in the Planning Conference Room at 30 Valley Street in downtown Asheville.*
- *The next regular meeting of the Board will be Tuesday, January 20, 2008 at 4:30 p.m. in Commission Chambers*

PUBLIC COMMENT

Jerry Rice said that rules and procedure will be discussed at the retreat but he thinks that if there are going to be rules the Board should be required to follow them.

Commissioner Stanley moved to adjourn and Commissioner Peterson seconded and the motion passed 5-0. Meeting adjourned at 8 p.m.

KATHY HUGHES, CLERK TO THE
BOARD OF COMMISSIONERS

DAVID GANTT, CHAIRMAN
BOARD OF COMMISSIONERS