

**MINUTES OF BUNCOMBE COUNTY BOARD OF COMMISSIONERS'
REGULAR MEETING OF APRIL 20, 2010 AT 4:30 P.M.**

BE IT REMEMBERED: That the Board of Commissioners met in regular session on April 20, 2010, in the Commissioner Chambers, 30 Valley Street 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
Holly Jones, Commissioner
Carol Peterson, Commissioner
K. Ray Bailey, Commissioner

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

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION

Commissioner Jones gave the invocation.

DISCUSSION/ADJUSTMENT/APPROVAL TO FOLLOW AGENDA

The Chairman reminded the Board that in accordance with the State Government Ethics Act, it is the duty of every Board member to avoid both conflicts of interest and appearances of conflict. He asked if any Board member had any known conflict of interest or appearance of conflict with respect to any matter coming before the Board. None were stated.

Commissioner Peterson moved to approve the consent agenda as presented.

- **Approval of Minutes of April 6, 2010 Regular Meeting**
- **Budget Amendments:**
 - **Fund 22 - Workforce Investment Act (\$200,000)**
 - **Fund 10 – Health (\$25,240)**
- **Resolution to Authorize the Chairman to Review the Joint Cooperation Agreement with Asheville Regional Housing Consortium**
- **Resolution Approving Pyrotechnic Experts for Firework Displays (Civic Center; Biltmore Estate; McCormick Field)**
- **Release Report**
- **Resolution Authorizing Mountain Mobility to Enter into an Agreement with Blossman Gas for the LPG Conversion of 10 Vehicles using ARRA Funds**
- **Resolution Authorizing Mountain Mobility to Enter into an Agreement with Piedmont Tire for the Preventative Maintenance of Vehicles Using ARRA Funds**

Vice Chairman Stanley seconded and the motion passed 5-0.

GREEN NEWS

- **Buncombe Life Magazine**

Kathy Hughes, Clerk to the Board and Public Relations Director, presented the new edition of Buncombe Life Magazine, a bi-annual publication of the County that highlights the services, policies and work of County government. In this edition, Ms. Hughes said that the staff featured

the County's green emphasis by asking citizens to submit photos and green ideas. Ms. Hughes said that the citizens who have submitted pictures that the County chose to use on the cover were present. The Commissioners presented each citizen with a gift and thanked them for their submission. Buncombe Life would be available in all branch libraries, County offices and online at buncombecounty.org.

PROCLAMATIONS

▪ Foster Care Appreciation Month

Commission Peterson read the proclamation and moved for its approval. Vice Chairman Stanley seconded the motion and it passed 5-0. Becky Kessell from the Department of Social Services accepted the proclamation and thanked the Board for their continued support of foster families.

▪ Motorcycle Awareness Month

Vice Chairman Stanley read the proclamation and moved for its approval. Commissioner Peterson seconded and the motion passed 5-0. Roger Williams accepted the proclamation on behalf of the local bikers association and thanked the Board for their support. He said that they are taking the motorcyclist awareness program into the high schools and are asking the state to implement the program as part of the drivers education.

Vice Chairman Stanley spoke in memory of Mr. Gene Lummus, who was very active with the bikers and with the toy drive every year.

PUBLIC HEARING

• Rezoning Requests

○ WNC Mountain Land Corporation (Charlotte Hwy – R-LD to NS)

Jim Coman, Zoning Administrator, reviewed the property analysis and Planning Board decisions that are attached to the minutes.

The Chairman opened the public hearing at 5:04 p.m.

Craig Justus, attorney for WNC Mountain Land Corporation, gave a history of the property stating that the property was zoned under the previous zoning ordinance as neighborhood service and that designation is what his client was requesting. He said that the rezoning request would make the property consistent with the land use plan. He said that his client plans to construct a business and possibly residential properties.

Jeremy Jones, resident of Cedar Mountain Road, said that he does not want commercial zoning on the road. He felt commercial development in this area would be terrible as the property is too steep.

Jeff Foster, Mercer Design Group who had been employed by with the petitioner, said that the property as it was currently zoned would support three residential properties and would be prohibitive for residential development. He supported the zoning change as requested.

Elaine Durham spoke in opposition based on traffic concerns as the property is at the crest of Mine Hole Gap. She asked that the staff recommendations be followed.

Alan Ditmore said that smart growth is designed to reduce vehicle miles traveled and support more construction closer to town. He was in favor of the rezoning.

Steven Schmizer, resident of the area close to the property in question, said he was representing the wildlife preservation foundation. He pointed out that this area is a woodland forest and is the only remaining major crossing for wildlife between Asheville and Fairview and was opposed to this rezoning.

Mark Morris, real estate appraiser who was employed by the law firm representing the petitioner, had provided an analysis on the property. He said that property would be worth much more if it were rezoned neighborhood service.

Linda Conner King agreed with the speakers opposed to the rezoning. She said that this would be a big step to change the use of residentially valuable property. She was opposed to the rezoning and protection of the site.

Ken Braine with the Sierra Club was opposed to the rezoning because the property around the area would be impacted in a negative way.

Lee Ramus spoke in opposition to the rezoning.

Darren Stroupe said he was a new home owner from the area and did not want the property rezoned. He did not want anymore services in this area.

Judy Maddox did not want the property rezoned commercial.

The Chairman closed the hearing at 5:24 p.m.

Commissioner Bailey asked about the zoning designation. Mr. Coman said that in 2007 the zoning ordinance did include neighborhood service for this property.

Craig Justus said that the neighborhood service was compatible with the area and it was a reasonable designation for the piece of property.

Commissioner Peterson said that she travels the road everyday and it is a scenic byway and a beautiful road.

Commissioner Jones said that she was not in support of the rezoning; however she felt the County should find ways to have neighborhood service with infrastructure. She said that as zoning is refined, the County should find appropriate ways to reduce sprawl. She said that NS is not very different than CS and perhaps that should be reviewed. Perhaps conditional zoning would be the right way to go forward.

Vice Chairman Stanley said that this was zoned NS in the beginning and he would vote to approve the change.

Commissioner Peterson moved to deny the request. Commissioner Jones seconded and the motion passed as follows:

AYES: Chairman Gantt; Commissioners Bailey, Jones, Peterson

NOES: Vice Chairman Stanley

- **Tiny Farms Subdivision**

- **Craddock (OU to R-1)**
- **Bradley (OU to R-1)**
- **Black (OU to R-1)**
- **Kuykendall (OU to R-1)**

Jim Coman, Zoning Administrator, said that the petition involved 4 properties that would be reviewed as one application. The changes from Open Use to R-1 were recommended by the Planning Board and staff for approval. This change was consistent with the comprehensive land use plan and the majority of the surrounding properties are already zoned R-1.

The Chairman opened the public hearing at 5:37 p.m.

Bill Craddock said he had lived in Tiny Farms for 40 years and his community had always been residential.

Alan Ditmore said that this property should not be rezoned because it would be better for everyone to have more commercial development so they don't have to drive to Asheville.

Jane Craddock said that Tiny Farms is a separate neighborhood and the entire neighborhood should be R-1.

The Chairman closed the hearing at 5:42 p.m.

Commissioner Bailey moved to approve the request as presented. Vice Chairman Stanley seconded the motion and it passed 5-0.

- **Curtis (R-2 to R-3)**

Jim Coman, Zoning Administrator, said that the Planning Board and Planning staff have recommended denial of the property rezoning request. He said that this rezoning would not be consistent with the land use plan or with the area and would be detrimental to the neighborhood.

The Chairman opened the public hearing at 5:46 p.m.

Roger Curtis requested to have his property rezoned R-3 because he wanted to put a mobile home on his property. He had two sons and he wanted them to be able to put a home on the property. He said that he did not intend to build a mobile home park.

Jim Holbrook said that his family had acreage near this property and was not in favor of the rezoning request.

Alan Ditmore said that he lives in a mobile home and he is offended that any government official would attempt to ban any mobile home anywhere.

Belinda London said that she can see the property from her home and she had lived on the property for years and had put a lot into keeping it up and she did not want a mobile home near her property.

Jerry Rice said that he was in favor of the rezoning and felt the property would be commercial in the future anyway.

Mike Holbrook said that he sympathizes with the petitioner but if the property is rezoned to R-3 he could change his mind and begin a mobile home park.

Rick Trantham is opposed to the rezoning. He suggested that the petitioner subdivide his property for his children instead.

Linda Rickman said that she grew up on the property and is opposed to an R-3 designation.

Jim London said that he understood the petition's desire to provide a place for his children; however, it should not be rezoned as requested.

Mr. Curtis said that there is low lying land but there is also a lot of usable land in the tract. He said that he could put a big apartment complex but not one mobile home.

Mr. Coman said that the land could be subdivided and given to an immediate family member; and modular homes are allowed under his present zoning.

The Chairman closed the hearing at 6:11 p.m.

Commissioner Peterson moved to deny the request for rezoning. Commissioner Gantt seconded the motion.

The motion passed 4-1 as follows:

AYES: Chairman Gantt; Commissioners Bailey, Jones and Peterson

NOES: Vice Chairman Stanley

Commissioner Jones thanked the neighbors for being respectful and having concern for their neighbors.

- **WNC Pallet (EMP to OU)**

Jim Coman, Zoning Administrator, said that the request to rezone was denied by the Planning Board and the Planning staff based on the rezoning not being consistent with the land use plan and the neighborhood.

The Chairman opened the meeting at 6:15 p.m.

Craig Justus, representing WNC Pallet, said his client has applied for Open Use designation in order to keep their chipping business and protect the existing use; as well as add an asphalt

plant in the future. He thinks the asphalt plant should be located on this property instead of somewhere along Pisgah highway which he said was their future plan if they couldn't locate at this property.

Lane Malloney said that he owns property that abuts this property that has been in the family since 1888. He said that the open use designation is almost having no zoning and he recommends no rezoning.

Alan Ditmore said that this business provides jobs that don't have to drive into Asheville and the zoning should be approved.

Joan Worley said that she and her husband own a bed and breakfast adjacent to the pallet company and they are concerned that open use zoning would have a negative impact on their business. She was opposed to the rezoning.

James Worley said he doesn't want any additional impact on the community from additional industrial development. He does not want the entire zoning designation changed. He appreciates the work brought by the company but does not want the zoning changed.

Craig Justice said that the noise and dust are bad but open use is the only place where an asphalt plant can be permitted and it should be placed somewhere that already has this use. He said he was willing to defer his application and would submit an application for a text amendment to allow the plant on this property.

The Chairman closed the public hearing at 6:41 p.m.

Mr. Coman said that conditional uses in open use include asphalt plants, chip mills, concrete plants, hazardous waste facility; incinerators, junkyard, landing strips, mining, motor sport facilities; outdoor shooting ranges; slaughtering plants, landfill or transfer stations. All conditional use requests must go through the Board of Adjustment.

Commissioner Stanley suggested that perhaps a text amendment or some other amendment to allow the placement of this plant in the existing use should be considered.

Commissioner Jones agreed that more study is required. The County Attorney said that a modification to the land use plan would be required to ban certain uses.

Commissioner Bailey said that this should be reviewed at length.

The Board agreed that perhaps a deferral of this application and return to the Planning Board for a look at how better to address this request was the best action. Mr. Justus said that he would withdraw this application to avoid a denial but would apply for a text amendment to the Planning Board.

- **Donnelly (R-LD to NS)**

Jim Coman, Zoning Administrator, said that this application was approved by the Planning Board but Planning staff denied the request because it was not consistent with the land use plan and could lead to strip commercial development not consistent with surrounding uses

The Chairman opened the public hearing at 6:57 p.m.

Michael Donnelly, applicant, said that he was requesting a change so that he can commercially develop the property. He felt that this property was perfect for commercial development and already had a cell tower on this property. He said that the highway noise makes residential development prohibitive. He plans to build a commercial establishment and pointed out that the Planning Board found it consistent with the land use plan.

Steven Schmizer who lives less than one mile from the property asked that this rezoning be rejected because like the property discussed previously that is adjacent to this one, it is a wildlife crossing and would negatively impact the community and wildlife.

Alan Ditmore said that he was in favor of more development. He said that it would help traffic by keeping people from coming to Asheville.

Ken Burney said that there is no shortage of shopping in this area but there is a shortage of green space and old growth forest. He was opposed to the rezoning.

Judy Maddox spoke against the rezoning in favor of the wildlife and preservation of the woodlands.

Mr. Donnelly said that in order to develop a residential low density property he would be forced to put up a masonry wall that would be ugly and would keep wildlife out.

The Chairman closed the hearing at 7:18 p.m.

Commissioner Peterson moved to deny the request. Commissioner Jones seconded the motion and it passed 4-1 as follows:

AYES: Chairman Gantt, Commissioners Bailey, Jones and Peterson

NOES: Vice Chairman Stanley

COUNTY MANAGER'S REPORT

The County Manager announced that I-40 would reopen April 25 after being closed due to a rock slide months ago.

NEW BUSINESS

- **Green Jobs in Buncombe County (Ben Teague, Asheville Chamber)**

Ben Teague, Asheville Chamber, gave a power point presentation regarding green jobs in the County. He said that there are federally funded green jobs and locally produced green jobs. He said that the Chamber defines "green" as doing business in an environmental conscious way. He reviewed the definition of green for businesses and jobs. He felt the green movement was continuing to increase across the state and reviewed the Chambers work in the green economy. He said that the County's interest in green will enhance their ability to attract this economy. He said that climate access gives the County a head start in this area. He said that he would survey other counties as to their green incentives.

Commissioner Bailey asked that Mr. Teague come back on a regular basis to give more updates on the status of green jobs.

BOARD APPOINTMENTS

Commissioner Bailey moved to reappoint the following members to the **Mountain Area Workforce Development Board**:

- David Bailey (1 year term)***
- Linda Biggers (2 year term)***
- Laura Copeland (2 year term)***
- Rick Elingburg (3 year term)***
- Paul Rhodes (1 year term)***
- Tim Rhodes (3 year term)***
- Dr. Hank Dunn (3 year term)***
- Katheryn McIntyre (3 year term)***
- Bill Maloney (1 year term)**
- Robert Kendrick (2 year term)**
- William Mance (3 year term)**
- Lorraine Poe (2 year term)**
- Bryan Dover (1 year term)**
- Danny Hardin (3 year term)**
- John Beatty (3 year term)**

The motion passed 5-0.

ANNOUNCEMENTS

The Chairman announced that the next regular meeting of the Board would be May 4, 2010 at 4:30 p.m.

PUBLIC COMMENT

Jerry Rice made comments regarding nursing and family care homes asking the board should be more involved in these issues. He questioned the use of mental health facilities.

Commissioner Bailey moved to adjourn the meeting. Vice Chairman Stanley seconded the motion and it passed 5-0. The meeting was adjourned at 7:50 p.m.

KATHY HUGHES, CLERK TO THE
BOARD OF COMMISSIONERS

DAVID GANTT, CHAIRMAN
BOARD OF COMMISSIONERS