

**MINUTES OF BUNCOMBE COUNTY BOARD OF COMMISSIONERS'  
REGULAR MEETING OF OCTOBER 5, 2010 AT 4:30 P.M.**

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**BE IT REMEMBERED:** That the Board of Commissioners met in regular session on October 5, 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; Mandy Stone, Assistant County Manager/DSS Director; Jon Creighton, Assistant County Manager/Planning Director; Donna Clark, Finance Director; Kathy Hughes, Clerk to the Board; Mike Frue, County Attorney.

### **CALL TO ORDER**

### **PLEDGE OF ALLEGIANCE**

### **INVOCATION**

Chairman Gantt 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 September 21, 2010 Regular Meeting**
- **Resolution Authorizing Transfer of a Medical Equipment Trailer to Mission Healthcare Foundation, Inc.**
- **Resolution Authorizing Acceptance of Request from Asheville Buncombe Technical Community College or Donation of 2 Surplus Vehicles**
- **Resolution Setting a Public Hearing Regarding Designation of John A. Lanning House**
- **Resolution Extending the Closing Deadline for Mountain Housing Opportunities**
- **Budget Amendments:**
  - **Fund 10 – Juvenile Crime Prevention Council (\$522,441)**

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

### **PROCLAMATIONS**

- **National Long Term Care Residents Right Week 2010 (October 3-9)**

Commissioner Peterson read the proclamation and moved for its approval. Vice Chairman Stanley seconded and the motion passed 5-0. Sonia Frederich member of the Adult Care Home Community Advisory Committee accepted the proclamation and recognized the members of the Courtyard and Emerald Ridge long term care homes that had come to the meeting.

- **Kids Voting Day (October 30)**

Commissioner Jones read the proclamation and moved for its approval. Commissioner Peterson seconded and the motion passed 5-0. Commissioner Jones presented the proclamation to Jewel Tavernor, board member of Kids Voting Buncombe County. Ms. Tavernor explained that Kids Voting volunteers were using electronic voting in the schools this year and encouraged everyone to bring a kid to voting on October 30.

*(Due to the anticipated length of the public hearings, the Board allowed the following item to be taken out of order.)*

- **Resolution Authorizing the Finance Director to Apply for Excess Recovery Zone Facility Bond Allocations**

Mike Frue, County Attorney, said the County had received a request for \$10 million of excess recovery zone facility bond funds. This request will go through the Industrial Facilities and Pollution Control Financing Authority and then to the Department of Commerce and Local Government Commission for approval. The funds, if approved, will come as a special loan that allow federal funds to pay a portion of the interest—no county money or liability is involved.

Mr. Guy Clerici attorney representing Reich GmbH, said his client manufactures vehicle parts and will be fully operational in 2014 bringing 80 new jobs with average wage of \$31,000. Commissioner Peterson moved to approve the resolution application for the bond funds. Commissioner Bailey seconded the motion to approve this resolution. The motion passed 5-0.

## **PUBLIC HEARING**

- **Land Development and Subdivision Ordinance**

Jon Creighton, Planning Director, gave a history of the work done to bring this proposed ordinance to the Board. He said that staff and Planning Board had met with engineers and land planners to discuss the best way to proceed.

Scott Hughes, Chairman of the Planning Board, introduced the other members of the Planning Board present--Josh Holmes, Les Mitchell, Joe Sechler, Michelle Wood, and Tommy Alexander. He said that the Planning Board and staff had worked to be fair and equitable, to preserve the natural beauty and be fair to development. He reviewed the proposed changes as reflected by the Planning Board version of the subdivision ordinance. He said that a more restrictive ordinance will result in larger retaining walls and more visual construction. Both ordinances will impact the job market making development more difficult to develop in the area of steep slopes.

Jon Creighton, Planning Director, gave a power point presentation regarding the recommendations of the steep slope ordinance. He reviewed the changes that the staff recommended for the subdivision ordinance and the key differences in the two versions of the ordinance.

Debbie Truempy, County Planner, reviewed the changes to the zoning ordinance. She presented maps of the slopes in the county and addressed the reason for the zoning overlays. She reviewed the lot sizes and height size limits and the protected ridge overlay restrictions.

Mike Frue, County Attorney, said that there are only three differences in the staff and Planning Board versions of the subdivision ordinance. These changes may affect about 3,500 lots. He reviewed vested rights as it applies to the ordinances considered and how a citizen can appeal to the Planning Board for a variance. He recommended that the Board approve the staff version of the subdivision ordinance.

*The Chairman gave instructions on how the process of hearing would be held and opened the hearing at 5:15 p.m.*

Commissioner Peterson recognized Jim Coman, retired Zoning Administrator who was present in the audience and had worked on the subdivision and zoning ordinances, thanking him for his years of service. She said that she intended to make a motion to adopt the staff version of the ordinance as presented.

Max Swicegood spoke on behalf of the CIBO his comments are attached to the minutes.

Marsha Szerlip from Webb Cove Road said that she was thankful for the place where she lived and was in favor of the restrictions for saving the slopes. She wanted the Board to adopt the staff version of the ordinance.

Elaine Light spoke in favor of the staff recommendations and even stricter regulations. She was also in favor of the zoning overlay and that the Board should make them effective immediately. She was not in favor of grandfathering and urged the Board to enforce the ordinance as presented.

Sonia Frederich said that she was a former Planning Board member and a realtor and it had been very apparent that slopes were sliding back years ago. She was in favor of the staff recommendation and urged the Board to support that version.

Lee Whipple, civil engineer, said that the projects that had gotten approval were not based on actual data and he presented, what he felt was a better engineering process for the County to use.

Ken Braine on behalf of the Sierra Club, urged the Board to adopt the staff proposal.

Hartwell Carson urged the Board to approve the staff recommendations. He wants to keep the sediment out of the streams.

Donald Jeffries said that he hopes the Board will adopt the staff recommendations and protect the mountains and ridges.

Alan Ditmore said that this will limit unit density and have adverse consequences.

Laurie Greenburg was concerned about landslides and was in favor of the ordinance as presented by the Planning staff.

Valarie Holt said that she moved here in 2004 and was impacted by the flooding. She recommended that the elevation be more restrictive than what is presented.

Richard Scogosi spoke in favor of the staff proposal because it is more restrictive.

Mike Butrumn, represented the Board of Realtors stating that most builders follow the rules. He felt the impact of the restrictions would show up in the cost to the buyer.

Erin Penland criticized the process of working on the ordinance and did not want any zoning. He was opposed to zoning.

Albert Sneed said that the issue was being driven by fear and there were a lot of houses built on slopes. He said that this ordinance will devalue mountain property. He did not like the description of what people would have to do to get a variance or appeal the decisions of the Planning Board or staff.

Maude Evans read comments regarding protection of the mountains. She was in favor of the staff proposal and enforcement.

Russ Martin said that his home was built at 3,500 feet in elevation and he was in favor of safeguarding the property and he urged the Board to support the staff's version of the ordinance.

Richard Bernard said that development on ridges should be allowed and should cost more to develop. He felt that everyone should have property rights.

Eric Bennett said that he had researched the impact of steep slope development on preexisting homes and he urged the Board to pass the staff recommendations.

Tate McQueen said that he was in favor of the Planning Board recommendations. He spoke about the ground water contamination at CTS. He was very furious about the lack of protection at the CTS site.

Ted Campbell was representing Friends of Town Mountain and thanked everyone who had worked on the steep slope ordinance. He said that slopes should be protected and endorsed the staff recommendation. He wanted the zoning ordinance amendment to be approved enforced as well.

Jerry Rice spoke against zoning but was in favor of the Planning Board version of the ordinance.

Judy Maddox with the Sierra Club wanted the Board to vote for the staff recommendations.

Hope Herrick spoke in favor of the staff recommendations.

BJ Gerkin thanked the Board for their leadership and supported the staff recommendations.

The Chairman closed the public hearing closed at 6:37

Commissioner Peterson moved to adopt the staff version of the subdivision ordinance as presented. Commissioner Jones seconded and the motion passed 5-0.

Commissioner Bailey said that everywhere he'd been he had heard that protection of the mountains was very important. He said that he still had some questions about the liability/vested right issue and was concerned about economic development. He said the Board needed to look carefully at the ordinance and monitor its impact.

Vice Chairman Stanley said that he was in favor of these changes because the beauty and safety of the mountains must be protected.

Commissioner Peterson said that she was grateful to the Planning Board and Planning staff for all their hard work. She felt that their agreement on all but two or three areas pointed to a good ordinance. She said that it was the right thing to do and the right time to do it.

Commissioner Jones agreed with the remarks made and pointed out that there are property owners on both sides of the issue concerned with the implications for preservation and of development. She supports the ordinance because it takes a long view and is a work in process. She urged everyone to understand that there could be changes made in the future. She asked to hear staff address the enforcement of the ordinance in the future.

Chairman Gantt said that the Board must look to the future and protect the mountains. He thanked many people on staff and volunteers for their work on the ordinance. The motion passed 5-0.

*(The Board allowed the following item to be taken out of order)*

- **Economic Development Incentive Announcement**

Mike Frue, County Attorney, said that the economic development incentive agreement would pay Nypro \$1.8 million over the next 5 years if they meet the requirements of the agreement. This amount meets the criteria of the County's economic development policy.

Joe Freitas, General Manager of Nypro, said that they had partnered with a health care company and competed world-wide to bring a new contract here and won the contract. They will make an \$83 million investment bringing 156 jobs over 3 years. He thanked the County and the Economic Development Coalition (EDC) for working with them and for the incentive.

Commissioner Bailey, Chairman of the EDC, said that Mr. Freitas was instrumental in making this happen and without EDC we would not have won the 157 jobs.

Commissioner Bailey moved to approve the incentive agreement. Vice Chairman Stanley seconded the motion and it passed 5-0.

- **Zoning Ordinance Amendment**

Debbie Truempy, County Planner, gave a review of the zoning changes regarding the overlays involving protected ridge tops. The Planning Board and staff agree on the recommendations and after a public hearing was held on September 13, the recommendations were unanimously adopted.

The Chairman opened the public hearing at 7:01 p.m.

Max Swicegood, CIBO member, a real estate developer, realtor and resident of the county said that the people were not represented. He said that he would have to hire lots of professionals to determine what he can do with his land and he was opposed to these changes.

Jerry Rice made comments about Chemtronics and CTS. He made comments about nuclear waste being dumped in Sandy Mush and requested an investigation.

Jude Styles said that she attends the Planning Board meetings and was in favor of the amendments.

Doug Vanderwart said that he is the property manager at Billy Graham Training Center at the Cove and there are two buildings on that property that were above 3,500 feet and built within these standards.

Angelo Camerano asked about his farm on 100 acres and how the Planning Department determined the boundaries for the overlays.

Ted Campbell asked the Board to consider reflective index implications in the County. The Chairman closed the public hearing at 7:15 p.m.

The County Attorney said that there were certifications for mailings, posting and publication.

Commissioner Peterson moved to approve the Resolution Adopting the Statement of Consistency Regarding the Amendment to the Text and Maps of the Zoning Ordinance Chapter 78 of the County Code. Commissioner Jones seconded and the motion passed 5-0.

Commissioner Peterson said that this amendment is in the best interest of the citizens and she moved for its approval. Commissioner Jones seconded and the motion passed 5-0.

- **Installment Financing Contract**

Donna Clark, Finance Director, outlined the items to be financed and refinanced. The total package would not exceed \$72 million.

The Chairman opened the public hearing at 7:22 p.m.

Jerry Rice asked for more information about debt service each of the items to be financed. The Chairman closed the hearing at 7:23 p.m. No action was required at this meeting.

- **Grant Application to NC Division of Community Assistance**

Donna Cottrell, County Planner, said that the hearing was to announce the County's intent to apply for 2010 Community Development Block Grant housing grant funds and was required as a part of the grant application. She said that the County is eligible to apply for these funds every three years and this year the County will be applying for \$400,000. She anticipates being able to help at least 13 homes in this cycle. She said that if anyone is interested in applying for the funds, they can call the Planning Office at 250-4870.

The Chairman opened the public hearing at 7:26 p.m.

Jerry Rice asked if the funds were regional or just for Buncombe County. (The funds are for areas outside municipal areas in Buncombe County only.)

Eric Penland asked about the \$6 billion that came from the Federal Government for shovel ready projects. He referred to the groundwater problem at CTS. He wants money to cleanup this site.

The Chairman closed the hearing at 7:28 p.m. No action was required at this meeting.

## **ANNOUNCEMENTS**

- *The next meeting of the Board will be October 19, 2010.*

## **PUBLIC COMMENT**

Mike Fryer (*allowed 10 minutes – he represented 8 people who were present at the meeting*) spoke about the Sheriff's budget and the increases in his budget over the previous administrative and charges made to credit cards issued by the County. He talked about the detention facility averaging 400 to 410 inmates per day with 200 empty beds, two empty housing units and 8 officers not needed. He said that officers are teaching at AB Tech and being paid by the county at the same time. He asked for an investigation and more accountability at the Sheriff's Office.

Erin Penland was upset and disgusted that the Board did not show up with the EPA meeting several weeks ago. He reported that State Representative Jane Whilden had asked for an investigation of the EPA office. He asked to have the Health Director take action. Commissioner Jones said that that no one should say the Board did not care and she would not sit by and let it be said. The caring of the Board of Commissioners could and should not be determined by their attendance at a meeting. She said that the Board had acted on behalf of the citizens by sending the Health Director and her staff who were the experts.

Commissioner Bailey moved to adjourn the meeting. Commissioner Peterson seconded and the motion passed 5-0.

The meeting was adjourned at 7:46 p.m.

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KATHY HUGHES, CLERK TO  
THE BOARD OF COMMISSIONERS

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DAVID GANTT, CHAIRMAN  
BOARD OF COMMISSIONERS