

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

BE IT REMEMBERED: That the Board of Commissioners met in regular session on October 6, 2009, 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
K. Ray Bailey, Commissioner
Holly Jones, Commissioner
Carol Peterson, Commissioner

Absent : Bill Stanley, Vice Chairman

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

Pastor Michael McFarland, Emmanuel Lutheran Church 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 10 Special Meeting and September 15, 2009 Regular Meeting**
- **Resolution Setting Public Hearing to Consider Closing Unopened Road**
- **Resolution Enacting Rules and Standard Regulations Defined by the Sheriff of Buncombe for Use of Inmate/Prisoner Labor**
- **Resolution Authorizing the Acceptance of a State Revolving Loan and Agreement with NC Department of Environment and Natural Resources**
- **Adoption of County Employee Travel Policy**
- **Resolution Supporting Participation in Regional Collaboration of County and City Governments to Address Regional Fuel Planning Through US Department of Energy Local Assurance Planning Initiative**
- **Grant Project Ordinance**
- **Budget Amendment – Fund 10; Fund 22**

Commissioner Jones seconded and the motion passed 4-0.

GOOD NEWS

- **County Receives Award of Excellence**

Kathy Hughes, Clerk to the Board/Public Relations Director, said that the PR Team was happy

to report that the County had won two National Awards for the County website and the Kindness Campaign. At the recent 3CMA (City, County Communications and Marketing Association) conference, the County was chosen from 675 entries from across the nation, to be honored with the Award of Excellence. She thanked County staff for their help in making the website and the kindness campaign a success.

PROCLAMATION

- **Industry Appreciation Week**

Commissioner Bailey read the proclamation and moved for its approval. Commissioner Peterson seconded and the motion passed 4-0.

Ray Denney, Ben Teague and Clark Duncan with the Asheville Chamber of Commerce accepted the award on behalf of the 220 manufacturers in Western North Carolina area.

PUBLIC HEARINGS

- **Bond Order Authorizing the Issuance of Not to Exceed \$5,736,666 General Obligation School Bonds**
- **Resolution Providing for the Issuance of \$5,735,000 General Obligation School Bonds**

Donna Clark, Finance Director, said that the hearing was to allow public to comment on the financing discussed on September 15, 2009. The bonds were a low interest debt instrument that can be used by the Schools.

The Chairman opened the public hearing at 4:42 p.m.

Jerry Rice asked about the 1993 bond order that caused a 1 cent sales tax that was scheduled to be removed after the indebtedness was paid but was never dropped. He asked for a presentation from the School Board.

The hearing was closed at 4:44 p.m.

Ms. Clark said that she would look into the 1 cent sales tax increase that Mr. Rice mentioned. She said that there is a source to repay these funds other than the general fund budget.

Commissioner Peterson moved to adopt the resolution as attached to the minutes. Commissioner Jones seconded and the motion passed 4-0.

COUNTY MANAGER'S REPORT

- **Human Services Update**

Mandy Stone, Assistant County Manager/Social Services Director, gave a report on the human service departments realignment and delivery of services over the past several years. She said that the realignment positioned the County to weather the challenges in the last year. She reviewed the smart partnerships that the department had built over the last four years and thanked the Board for their support during all the changes in these departments. Commissioner Peterson thanked Ms. Stone and her staff for their hard work and leadership as well as Bill McElrath, member of the Boards of Health and Social Services. Commissioner Bailey saluted the passion that the employees have for the job that they do everyday for the citizens in the County.

NEW BUSINESS

- **Ordinance Granting Exclusive Franchise for Collection and Disposal of Solid Waste and Collection of Recyclables in Unincorporated Areas of the County**

Jon Creighton, Assistant County Manager/Planning Director, reviewed the process that had resulted in the staff's recommendation of WastePro USA as the County's residential waste hauler for the next 10 years. He said that the Ordinance granting this franchise had been approved by the Board on first reading at their September 15 meeting. The law requires a second reading on this ordinance.

Commissioner Peterson moved to approve the ordinance on second reading. Commissioner Jones seconded and the motion passed 4-0.

- **Proposed Amendment to County Zoning Ordinance – Chapter 78 County Code**

Jim Coman, Zoning Administrator, said that the Beaverdam and Limestone Councils and County Planning Board had reviewed the text and maps of the zoning ordinance and had recommended approval as presented by the Board of Commissioners.

Commissioner Bailey moved to set a public hearing on the recommendations for November 17. Commissioner Peterson seconded and the motion passed 4-0.

- **Proposed Amendment to County Flood Damage Prevention Ordinance – Chapter 34 County Code**

Cynthia Barcklow, County Planner, said that on September 1, 2009, the amendments to the text were submitted to the County Planning Board and they found these consistent and recommended their adoption. She asked that a public hearing be set for November 3. Commissioner Jones asked that the Flood Prevention Task Force be invited to comment on these amendments.

Commissioner Peterson moved to set a public hearing for November 3. Commissioner Jones seconded and the motion passed 4-0.

Erin Penland asked several questions about the about flood planning for the Brookwood Golf Course area.

- **Resolution Providing for the Issuance of Not to Exceed \$9,700,000 General Obligation Refunding**

Donna Clark, Finance Director, said that these refunding bonds would be a savings to the County.

Commissioner Peterson moved to approve this resolution. Commissioner Bailey seconded and the motion passed 4-0.

- **School – COPS**

Donna Clark, Finance Director, said that these bonds would cover the construction of two new schools and the purchase of an office building to be financed through certificates of participation. The office building would be included subject to its approval later in the agenda.

Commissioner Bailey moved to set public hearing for November 3. Commissioner Peterson seconded and the motion passed 4-0.

- **Resolution Setting Public Hearing on the Acquisition, construction and Equipping of a Health and Science Learning Facility by the Health Adventure, Inc., A north Carolina Nonprofit Corporation and the Financing Thereof Through the Issuance of Bonds by the Buncombe County Industrial Facilities and Pollution Control Financing Authority**

Donna Clark, Finance Director, said that this financing had been requested by the Health Adventure for the construction of the new health and science center and would be issued through

the Industrial Facilities and Pollution Control Financing Authority. A public hearing would be required on this financing for November 3 regular meeting.

Paige Dickens with the Health Adventure, said that they had begun the construction of the new center and with the bond financing they could get it going full speed. The project will include a 39,000 square foot science and health facility which would be much larger than their current 12,000 square feet in downtown Asheville. The new center will reach more school children and will be a green building. They currently provide programming for 25 counties.

Commissioner Jones moved to approve this resolution and set the public hearing for November 3. Commissioner Bailey seconded and the motion passed 4-0.

- **Property Acquisition**

Wanda Greene, County Manager, said that the County was always challenged with having enough space to provide for employees and court services. She said that the County had looked at many, many options for more space while trying to avoid the need for additional funding. She said that the 50,000 square foot office facility at 200 College Street was available for \$9.5 million and located on County owned land. She said that the criteria to purchase this property included having it pay for itself with the revenues generated from leases and from moving out of other leased spaces across the county. The purchase of this building would expand the downtown campus and allow the County to meet more of the court related needs. She asked that the Board approve the issuance of debt for this building purchase and authorize the County Manager to sign the closing documents subject to the approval of the County Attorney.

Commissioner Peterson moved to authorize the County Manager to issue debt and sign the closing documents as requested. Commissioner Bailey seconded the motion and it passed 4-0.

- **Resolution Declaring the Intent of the County to Reimburse Itself for Capital Expenditures from the Proceeds of Certain Tax-Exempt Obligations to be Executed and Delivered in Calendar Year 2010**

Commissioner Bailey moved to approve this resolution as presented. Commissioner Jones seconded and the motion passed 4-0.

- **Capital Projects Ordinance**

Commissioner Peterson moved to approve this ordinance as presented. Commissioner Jones seconded the motion and it passed 4-0.

- **Acceptance of Western Highlands Financial Report**

Donna Clark, Finance Director, gave the report attached to the minutes. Commissioner Jones said that she is concerned about the pending challenge to meet the mental health needs in the future. Mandy Stone said that Western Highlands took a \$5 million reduction from the state and Western Highland was working to assure there were no cuts to client service areas. She said that their fund balance could not continue to cover the gaps in service after these state reductions.

The Chairman asked for a County Manager Report at a future meeting on the human side of the mental health issues that Western Highlands was facing.

Commissioner Peterson moved to accept the report as submitted. Commissioner Jones seconded the motion and it passed 4-0.

BOARD APPOINTMENTS

Commissioner Bailey moved to appoint Brad Brasher to the **Tourism Development Authority**. The motion passed 4-0.

The Chairman acknowledged the attendance of Boy Scout Leader Norman Riddle from Troup 77 in East Asheville and several Boy Scouts that were attending as part of achieving their Citizens in the Community merit badge.

ANNOUNCEMENTS

- *The next regular meeting of the Board will be November 3 at 4:30 p.m.*
- *The Board will attend the meeting of the Town of Woodfin on October 20, at 6:30 p.m. at the Woodfin Town Hall at 90 Elk Mountain Road in Woodfin*

PUBLIC COMMENT

Gene Hampton, Citizens for Quality Government, said he was proud to be a citizen of the County. He wanted the County to be a model for quality government and was proud of the way officials understood their civic duty and of the County's promotion of the kindness matters campaign.

Don Yelton reminded the Board that he had lobbied for action on the CTS problems for a long time. He expressed his concern for the 700 properties that had a different zoning classification since the end of zoning. He asked for another program on the county channel about the CTS problem.

Erin Penland spoke about the CTS groundwater contamination site and the additional wells that were testing positive for TCE. He requested to be placed on the Commissioners' agenda and to have them invite the State and Federal officials back to the county to meet with the citizens.

Patricia Pinner, resident of Chapel Hill Church Road, read comments regarding the CTS contamination. She requested municipal water as soon as possible for all the residents in this area and to have the plant torn down and the contamination taken care of.

Alan Ditmore said that the CTS areas should have municipal water. The County should act immediately and then bill the responsible parties. He was a proponent of family planning for the health of the environment but was opposed to having too many county offices in the downtown area.

Tate McQueen spoke against the CTS contamination stating that nothing had been done because the housing development had been built on a hazardous waste site. He said that he had been to Washington DC to brief the Senate panel on this issue.

Jerry Rice spoke about the constitutionality of the biotech center in Enka. He was also concerned with the mental health fund balance and thought the County should consider raising taxes to provide for the mental health needs. He wanted the NCACC to be proactive in addressing the mental health problem.

Mike Fryer was concerned about political indoctrination in the schools and he felt teachers should keep their politics to themselves.

Commissioner Jones said that she understood the frustration of the residents around the CTS site. She said that it would be valid to look into the running of the waterline extensions but the County would need to review the details. The Chairman asked that the County Attorney review the policy on waterline extensions and asked that the County staff meet with the community and report back on a better plan for future steps.

Mike Frue, County Attorney, reviewed the policy and criteria adopted by the Board in June of 2008 for waterline extensions. He said that County staff had been constantly working with EPA and DEHNR. The problem was in the preemption of state law as to what the County can actually do in this area. The Chairman asked Mandy Stone, Assistant County Manager, the County Attorney and County Manager meet with the citizens and go over what can and can't be done.

Commissioner Peterson moved to go into closed session pursuant to GS 143-318.11 (3) to consider the Blue Ridge Concrete versus Buncombe County (09CVS2904) matter. No action would be taken following the closed session. Commissioner Bailey seconded and the motion passed 4-0.

CLOSED SESSION

Discussion was held regarding the Blue Ridge Concrete vs. Buncombe County matter. Scott Jones and Mike Frue briefed the Board on the outcome of the recent lawsuit. The Board agreed by consensus not to file an appeal in this lawsuit (09CVS2904).

Commissioner Bailey moved to return to open session. Commissioner Peterson seconded and the motion passed 4-0.

Commissioner Bailey moved to adjourn the meeting. Commissioner Peterson seconded and the motion passed 4-0. The meeting was adjourned at 7:25 p.m.

KATHY HUGHES, CLERK TO THE
BOARD OF COMMISSIONERS

DAVID GANTT, CHAIRMAN
BOARD OF COMMISSIONERS