

**MINUTES OF BUNCOMBE COUNTY BOARD OF COMMISSIONERS'
REGULAR MEETING OF APRIL 21, 2009 AT 4:30 P.M.**

BE IT REMEMBERED: That the Board of Commissioners met in regular session on April 21, 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
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 ALLEGIANCE

INVOCATION

Chaplain Kent Withington, Asheville Police and Sheriff's Department, 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 Bailey moved to approve the consent agenda as presented.

- **Approval of Minutes of Special Meeting on April 3, 2009 and Regular Meeting on April 7, 2009**
- **Resolution Authorizing the Chairman to Execute Airport Grants**
- **Resolution Authorizing the Submittal of the Juvenile Crime Prevention Council Funding Plan for FY 2010 to NC Department of Juvenile Justice and Delinquency Prevention**
- **Release Report**
- **Grants Project Ordinance**

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

GOOD NEWS

- **Mountain Mobility Receives Grant Funds (Lori Hembree, County Planner)**

Lori Hembree with Mountain Mobility said that they had applied and received an Air Quality emission reduction grant which would convert five fleet vans to a dual fuel system. They would run on gas or propane and the grant would cover the construction of a filling station at the offices and training for the installation of the fueling system. This would be the first pilot project in the state; however, Ms. Hembree said that they had heard from the State Division of Air Quality and the funds may be retracted due to budget issues at the State level. Mountain Mobility staff will continue seeking economic stimulus funds for the conversion equipment.

PROCLAMATION

- **Motorcycle Awareness Month**

Vice Chairman Stanley read the proclamation and moved for its approval. Commissioner Peterson seconded and the motion passed 5-0. The proclamation was presented to Roger Williams with the Concerned Bikers Association. He thanked the Board for their 10 years of support for motorcyclists in the County. He reviewed the things that they would be doing to promote motorcycle safety.

- **Public Health Month**

Commissioner Peterson read this proclamation and moved for its approval. Commissioner Stanley seconded and the motion passed 5-0. Commissioner Peterson presented the proclamation to Gibbie Harris, Health Director.

- **Foster Care Month**

Commissioner Jones said that there is a continuing need for foster care for children in our community. She read this proclamation and moved for its approval. Commissioner Peterson seconded and the motion passed 5-0.

COUNTY MANAGER'S REPORT

- **Zoning/Moratorium Update**

Mike Frue, Assistant County Attorney, said that the Planning Department had worked on text and maps and are aiming for a June 2 date to adopt the zoning plan. A new Limestone Council had been elected and will meet May 4. A new Beaverdam Council should be elected today. Mr. Frue requested that the Board continue this Board meeting to April 28 at 4:30 to allow the Board to consider zoning matters and the possible extension of the moratorium.

NEW BUSINESS

- **Sheriff's Annual Report (Sheriff Van Duncan)**

Sheriff Duncan presented his annual report which can be found in its entirety on the County website. He highlighted the report in the power point attached to the minutes.

The Chairman took a moment to thank Dave Edwards, Airport Director for working to secure a \$7.5 million grant for the Airport and to wish him well as he leaves to take a job in Greenville NC.

- **Occupancy Tax Penalty Waiver (Red Rocker Inn, Red Roof Inn and Spring Hill Suites)**

Marla Tambellini, Chamber of Commerce Tourism Development Authority (TDA), said that the TDA had approved the requests for waiver. Commissioner Bailey said that he was the County's representative on that Board and agreed with the waiver approvals. Commissioner Jones clarified that this is a waiver of the penalty not the tax.

Commissioner Peterson moved to approve the request for waiver. Commissioner Bailey seconded the motion and it passed 5-0.

- **Resolution Approving the Expansion of the Construction of Demolition (C&D) Landfill**

Jerry Mears, Solid Waste Director, said that they would be expanding the C&D landfill per the photo made a part of the minutes. This expansion will move more construction and demolition waste out of the lined landfill.

Commissioner Peterson moved to approve the resolution as presented. Vice Chairman Stanley seconded and the motion passed 5-0.

- **CTS Site Briefing –**

Bruce Parris, Western Regional Supervisor of Department of Environment and Natural Resources addressed the work of the IHSB and gave his comments which are attached to the minutes. He said that the wells are being monitored and the results are coming in. He said that CTS will produce a remedial action plan once the phase one investigation is complete. There is an administrative agreement waiting to be executed and copies of this agreement are available at Pack Library and on the website. CTS has to, by law, submit an administrative agreement.

Carolyn Callihan the Environmental Protection Agency's remedial project manager with superfund division reviewed the superfund evaluation process. Her power point is attached to the minutes. She said that they were evaluating whether the Oaks contamination was from CTS. She said that the lab results can be confusing and they plan to have a meeting with residents after the results are posted.

Greg Powell , EPA technical support, said he has worked on groundwater contamination in the Oaks. He said that they are doing more investigation to find the contamination on these sites in the bedrocks. They are testing the wells this week and analyzing for TCE to find where it is entering the wells.

David Dorian, EPA audit coordinator, said he has worked on this project since 1999. He gave information in a power point that is attached to the minutes. He talked about the completion of the process of ozonation of the TCE into the ground water that was done this past week. He said that they were not sure of the effectiveness of the process. If this process works the system would be permanent until a full scale remediation is completed. This system is being paid for by CTS and Mills Gap Road Associates.

Angela Miller, EPA Community Involvement Coordinator, said that she will work on communication with the community. She stressed her availability to the community.

Sandy Mort, NC Division of Public Health, was doing the public health assessment of the site. Her presentation is attached to the minutes. She would be working with the County Health Center and would provide a draft document on the recommendations on this site.

Tate McQueen school teacher in Buncombe County and resident of the area in question said he spoke for over 100 families who have been affected by the slow cleanup of this site. He said that this is an issue of trust and that this contamination has been studied to death with no significant tangible results. He said that last quarter CTS had \$168 million in sales and the State is capping their loss at \$3 million. He and his family are living in an apartment because the contaminant is 500 feet from his well and he does not have city water. He gave a history of where the contamination has been historically found on the property. He showed a video of former employees from CTS talking about contamination and severance.

Bruce Parris said that the \$3 million remediation cost cap is part of the law passed in 1987. He said that investigation costs or actions done do not count toward that cost. If CTS feels

they have spent \$3 million on remediation, they have to prove their costs and continue working on the remediation. There is no settlement with CTS on the table, just an assessment plan and remediation plan. He said that this site is similar to the 100s of sites across the state. If there is contamination outside the immediate site it becomes part of the remediation.

Carolyn Callihan said that EPA has spent \$1.5 million so far. She had no idea how much CTS has spent.

David Dorian with EPA said that he can try and find out how much CTS has spent. He said that EPA is supervising the work on the site at this point along with DENR. CTS submits monthly reports of the contracted work that is overseen by EPA.

Sandy Mort said that she could not speak to what is actually in the public health report. The Chairman asked for an answer in writing as soon as possible.

Commissioner Stanley asked if the State and Federal governments planned to make CTS clean up the mess on that site.

Bruce Parris said that they are working to make CTS clean up the site. That effort is on going and geared toward submittal of remedial action plan.

After a break, the Chairman asked that the remaining questions be posted on the Buncombe County website with answers from the respective agencies.

Commissioner Jones said that she does not want this to happen again and asked the staff to put together ways they have addressed the broader concerns to prevent this in the future.

The Board thanked those that attended.

BOARD APPOINTMENTS

Vice Chairman Stanley moved to appoint **Agatha Van DeVen** to the **Nursing Home Community Advisory Committee** for a one year term. Commissioner Bailey seconded and the motion passed 5-0.

ANNOUNCEMENTS

- *The next regular meeting of the Board will be Tuesday, May 5 at 4:30 p.m. at 30 Valley Street in downtown Asheville.*

Public Comment

Jerry Rice asked about Foster Care homes. Mandy Stone, Assistant County Manager, foster homes are still needed in the County.

Vice Chairman Stanley moved to continue the meeting to April 28 at 4:30 p.m. Commissioner Peterson seconded and the motion passed 5-0.

CALL TO ORDER – April 28, 2009 continued meeting

The Vice Chairman called the continued meeting to order at 4:30 p.m. in Commission Chambers, 30 Valley Street in downtown Asheville with the following members present:

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

Chairman David Gantt was out of town.

Also 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.

The meeting was duly constituted and open for the transaction of business. The following business was transacted to-wit:

NEW BUSINESS

- **Resolution Authorizing the Submission of an Application for Funding Under the American Recovery and Reinvestment Act of 2009, Execution of Agreement with NCDOT and to Provide the Necessary Assurances**
- **Resolution Authorizing the Submission of an Application for Funding Under the American Recover and Reinvestment Act of 2009 and to Provide the Necessary Assurances**

Denise Braine, Planner III, said that the Board's approval was needed to submit requests for grant funds. She said that the applications were for Mountain Mobility projects for federal funds through NCDOT and included CNG vehicles. They were also requesting funding from other sources to cover the emission reduction project grant that may not be awarded through the state. She said that these grant funds preserve and create jobs and will effect those negatively impacted by the recession.

Commissioner Peterson moved to approve these resolutions as presented. Commissioner Bailey seconded and the motion passed 4-0.

The Vice Chairman asked for an update on the Swine Flu (H1N1) outbreak

Mandy Stone, Assistant County Manager, said that there were 3 suspected cases in Buncombe County, one is negative and two are pending. The national focus is to find anyone exhibiting the symptoms to prevent wider spread in the community. The federal government has released to Buncombe County 25 percent of the County's allocation of the national stockpile of virus medication and supplies for treatment of the outbreak. These supplies should be in town this weekend. A hotline number has been set up and the Health Center is working with Mission Hospitals to prepare for any additional outbreak.

- **Update on Zoning**

Joe Connolly, Assistant County Attorney, said that the Board would need to go into closed session pursuant to GS143.318(a)3. He said that he did anticipate some action after closed session. Commissioner Peterson moved to go into closed session for the reason stated by the County Attorney. Commissioner Bailey seconded and the motion passed 4-0.

CLOSED SESSION

The Board heard from attorney Ron Payne who would be assisting the County with zoning matters. He advised the Board on their next steps following the ruling that the County's zoning ordinance was invalid. No action was taken.

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

OPEN SESSION

Commissioner Peterson moved to adjourn the meeting. Commissioner Bailey seconded and the motion passed 4-0. The meeting was adjourned at 5:45 p.m.

KATHY HUGHES, CLERK TO THE
BOARD OF COMMISSIONERS

DAVID GANTT, CHAIRMAN
BOARD OF COMMISSIONERS

BILL STANLEY, VICE CHAIRMAN
BOARD OF COMMISSIONERS