

**MINUTES OF BUNCOMBE COUNTY BOARD OF COMMISSIONERS'
SPECIAL MEETING OF APRIL 3, 2009 AT 2 P.M.**

BE IT REMEMBERED: That the Board of Commissioners met in special session on April 3, 2009, in the Commissioner Chambers, 30 Valley Street in downtown Asheville, North Carolina at 2 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 was present by speaker phone
Holly Jones, Commissioner
Carol Peterson, Commissioner

Staff present were: Wanda Greene, 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

The Chairman read the following ethics statement:

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 this Board at this meeting and if they did to identify the conflict and refrain from any undue participation in the particular matter involved. No one expressed any conflict.

- **Ordinance Imposing a Temporary, Limited Moratorium on the Acceptance of Applications for and/or Issuance of any Storm Water, Soil and Erosion Flood Development, Well & Septic, or Building Permits and/or Permits for Adult Entertainment Establishments, Amusement Parks, Asphalt Plants, Concrete Plants, Chip Mills, Hazardous Waste Facilities, Incinerators, Junkyards, Landing Strips, Motor Sport Facilities, Outdoor Shooting Ranges, Slaughtering Plants, Mining and Extraction Operations and Solid Waste Facilities in Buncombe County**

Mike Frue, Associate County Attorney, said that this hearing was to consider the ordinance imposing a temporary, limited moratorium as attached to the minutes. He said that the official court action from the Court of Appeals will be filed on Monday, April 6. Mr. Frue reviewed the ordinance specific to the problem or conditions necessitating the moratorium; development that would not be subject to the moratorium (residential and commercial development not listed in the ordinance) and that would be subject to the ordinance. He said that the date of the ordinance would be Monday, April 6, 2009 at 12:01 a.m. and termination of the ordinance would be June 3, 2009 at 11:59 p.m. He reviewed exceptions to the ordinance that are set out in the ordinance.

The Chairman said that the County's Zoning Ordinance is currently in effect at this time because the Court of Appeals will not issue the mandate until April 6.

The Chairman opened the public hearing at 2:11 p.m. (Citizens were allowed 3 minutes each for comments)

Eric Gorney said that the 14 undesirable land uses were already covered by ordinances that were in place and he felt the moratorium was a farce to scare people. He said that he is disappointed that the Commissioners are trying to scare the citizens.

Erin Volcreky, President of the North Buncombe Concerned Citizens (*he was allotted 10 minutes representing 10 citizens present*) thanked the Board for considering the moratorium and urged them to support it. He said that his community has spent about \$26,000 and thousands of hours of time to prevent a concrete plant from building in their community. He said that the plant would pose a traffic hazard with large trucks entering a very narrow street and he encouraged the

Commissioners to consider some changes to the zoning ordinance would not put citizens in the situation to have to spend time and money defending the safety of their community. He proposed open use zoning that would prohibit certain uses within one mile of residential neighborhoods; schools and farms and would require adequate road structure.

Martha Claxton from Flat Creek and a part of the North Buncombe Concerned Citizens said that citizens are grateful for the zoning ordinance and want to protect themselves by stopping the concrete plant. She supported the moratorium until the County's zoning can be restored.

Dr. Sheila Dunn from the Flat Creek community and member of the North Buncombe Concerned Citizens said that the courts decision to overturn the zoning ordinance impacts the victory they won in the courts. She wants the Board to support the 60 day moratorium and a schedule to readopt the ordinance. She asked that when future changes to the zoning ordinance are considered, the Board consider an amendment that would prohibit certain land uses within one mile of farms, schools or residential areas and require adequate road system for certain development.

Ken Brank from Leicester asked for the moratorium saying that he moved here for the beauty of the community. He said that zoning is important and protects the value of the home and asked the Board to consider better zoning on steep slopes as well.

DeeDee Maddox, member of the North Buncombe for Concerned Citizens wants the moratorium to keep the beauty of the area. She wants appropriate zoning to protect neighborhoods.

William Neeven spoke representing Windy Gap and Young Life. He said that they have been in North Buncombe County for 40 years and support the community. They have 15,000 guests a year and are concerned that the area be safe and beautiful. They support the moratorium.

Jerry Rice from Candler said he voted no on zoning and he agrees with the no zoning crowd and asked the Commissioners not to consider voting for a moratorium. He is concerned that old plants are polluting the county with zoning or without. He criticized the timing of the hearing. He felt it was set at this time to keep people from coming out against it. He is for no zoning.

No additional citizens desired to speak.

The Chairman closed the hearing at 2:30 p.m.

The Chairman read in part the ordinance (which is attached in its entirety to these minutes). The Associate County Attorney also read specific sections of the ordinance including the timeline of effectiveness April 6 through June 3, 2009—if necessary a public hearing will be held to consider an extension of the moratorium on May 19. The Chairman moved to approve the ordinance as read. Commissioner Peterson seconded the motion.

Commissioner Jones thanked everyone who showed up to the hearing for sharing their feelings. She said that this is not the ideal time to hold a public hearing but in order to take the actions necessary to protect the citizens this was the best time to hold the hearing. She said that she supports getting the zoning up and running again and she hopes that more issues with the zoning ordinance will be addressed in the future. She said that proper land use insures property rights, improves stewardship of natural resources and preserves our natural beauty.

The Chairman said that the Board has taken consideration of this moratorium very seriously and that extraordinary circumstances have lead to this consideration.

Commissioner Bailey said that he had difficulty hearing all the speakers (due to listening by speaker phone) but believes that approving the moratorium is the proper thing to do at this point and was ready to vote.

The motion as presented passed 5-0.

The Chairman announced the next regular meeting of the Board would be April 7, 2009 at 4:30 p.m.

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

The special meeting was adjourned at 2:49 p.m.

KATHY HUGHES, CLERK TO THE
BOARD OF COMMISSIONERS

DAVID GANTT, CHAIRMAN
BOARD OF COMMISSIONERS