

**MINUTES OF BUNCOMBE COUNTY BOARD OF COMMISSIONERS'  
REGULAR MEETING OF MAY 5, 2015 AT 4:30 A.M.**

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**BE IT REMEMBERED:** That the Board of Commissioners met in regular session on May 5, 2015, in the Commissioner Chambers, 200 College Street, Room 326 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  
Joe Belcher, Commissioner  
Ellen Frost, Commissioner  
Mike Fryar, Commissioner  
Holly Jones, Commissioner  
Miranda DeBruhl, Commissioner  
Brownie Newman, Commissioner

Staff present was: Wanda Greene, County Manager; Jon Creighton, Assistant County Manager/Planning Director; Mandy Stone, Assistant County Manager/HHS Director; Tim Flora, Interim Finance Director; Bob Deutsch, County Attorney; Kathy Hughes, Clerk to the Board.

## **PLEDGE OF ALLEGIANCE**

## **INVOCATION**

*In accordance with the Code of Ethics adopted by the Board, all County Commissioners have a duty to obey all applicable laws regarding official actions; to uphold the integrity and independence of the office; to avoid impropriety in the exercise of official duties; to faithfully perform the duties of the office; and to conduct the affairs of the governing board in an open and public manner. Is there any item on the agenda the outcome of which will have a direct, substantial, and readily identifiable financial impact for any Board member? Also, does any Board member have a financial interest in any public contract coming before this Board today? There being none all Board members have a duty and obligation to vote.*

## **PUBLIC COMMENT**

Connie Kallback of Weaverville said almost all land in the county can already have manufactured homes. She did not want them in the R-1 or R-2 zoning districts. She felt they should not be considered affordable housing because they depreciated very quickly and were made of light-weight materials.

Ken Yount from Reems Creek was opposed to manufactured homes and wanted the Board to look at other ways of increasing affordable housing. He proposed giving incentives to develop affordable housing as a better idea than allowing manufactured homes in all areas of the County

Mark Manuel from Black Mountain was concerned about the proposed gun range for law enforcement. He felt the range was a bad idea and that Buncombe should continue to use Madison County's range.

Judy Styles from Swannanoa said that people in R-1 and R-2 zoning districts don't want manufactured homes because they have maintained their property and making an investment in your property is better measured in things other than dollar signs.

Brandan Hensley represented the Big Ivy Community Center asking for continued funding for the center.

Don Yelton wanted the staff to use their microphones so he could hear. He also wanted the Board to hold public comment on every new item on the agenda prior to a vote.

Gary Kallback of Weaverville read an article regarding the purchase of a Clayton Home. He suggested more thought be put into the affordable housing issue.

Sara Foster urged the Board not to allow mobile homes in all zoned areas and referred to the definition of manufactured and mobile homes.

## **DISCUSSION/ADJUSTMENT/APPROVAL TO FOLLOW AGENDA**

Commissioner Frost moved to approve the consent agenda as presented. Commissioner Jones seconded the motion and it passed 7-0.

- **Approval of the Minutes of the April 7, Regular Meeting**
- **Resolution Adopting an Update to the Title VI Plan for Mountain Mobility and Authorizing the Chairman to Execute a Title VI Policy Statement and US DOT Title VI Assurances for Mountain Mobility**
- **Resolution Granting Waterline Easement to the City of Asheville (Enka Intermediate School)**
- **Budget Amendment: Fund 10 (\$547,725)**
- **School Capital Commission Fund Project Ordinance**
- **Grant Project Ordinance**
- **ABTCC Capital Project Ordinance**
- **Capital Projects Ordinance**

- **Solid Waste Capital Project Ordinance**
- **Workforce Innovation and Opportunity Act Plan**
- **Release Report**
- **Resolution Approving Pyrotechnic Experts for Conducting Firework Displays**

## **Proclamations**

- **Motorcycle Awareness Month**

Vice Chair Belcher read the proclamation and presented it to Jody Martin with the Concerned Bikers Association. Mr. Martin thanked the Board for the proclamation stating that the association worked to improve motorcycle awareness and safety.

- **Foster Care Month**

Commissioner Jones said that family is determined by love not always DNA and she read the proclamation and presented it to Angie Garner with Health and Human Services. The proclamation passed 7-0. Angie Garner introduced and recognized several foster parents for their hard work: Joanna Earl, Jenny Waters, Beth Westmoreland, Katherine Cinnini.

- **Blue Ridge Parkway Report**
  - **Resolution Supporting Blue Ridge Parkway Preservation and Protection**

Mark Woods, Parkway Superintendent, gave a report on the status of the Parkway, emphasizing the importance of the communities that the Parkway passes through. He said that the Parkway passes through 29 counties and borders over 4,000 individual landowners along the parkway. Buncombe County has 80 view sheds along 48 miles of parkway. The Parkway will mark its 100<sup>th</sup> anniversary in August of 2016.

The Chairman read a proposed resolution (*attached to the minutes of this meeting*), asking the Planning Board to review the protection of Parkway view areas. He moved for approval of the resolution. Commissioner Frost seconded the motion.

Jon Creighton, Assistant County Manager/Planning Director explained the current Parkway overlay that works to protect height and buffering along the Parkway.

The Superintendent said that developments in Virginia that were built right up to the boundary of the Parkway have had a negative impact on Parkway visitors. As a result, County officials in Virginia are working with the Parkway to provide comment when developments that might impact the views have been requested.

Vice Chair Belcher pointed out that the Virginia Parkway area is different than Buncombe's area. He asked if this would be taken into consideration.

Commissioner Fryar said that Biltmore property can be seen from the Parkway.

Gil Stevens of the Friends of the Blue Ridge Parkway said that his group works to keep the Parkway clean and overlooks cleared.

Martha Vogal said she retired from the National Parks Service after 30 years and knows the importance of national parks to communities. She did not want to see what happened in Virginia happen here. Roanoke County had decreased visitation due to incompatible development.

Joe Mozelis lives near and owns land very near to the Parkway. He was in favor of the resolution as good common sense.

Jim Brain said that the Parkway was a treasure and a positive economic impact that added to the quality of life.

Judy Maddox, Chair of the Sierra Club, supported the resolution for Parkway protection.

JD Deckenbach, retired forest service employee, commended the protection of the Parkway. He felt it was the best step to ask the Planning Board to investigate. He recommended a scientific approach in dealing with landowners.

Gail Solomon Kemper from Weaverville thanked the Board for the protection of the Blue Ridge Parkway.

Bruce Clark was in favor of the Blue Ridge Parkway and wanted it protected.

Edie Styles said her house could be seen from the Parkway but she wanted the views protected. She referenced Haw Creek valley and wanted proper paint colors for homes that could be seen.

Lisa McGorder lives near the Parkway and spoke in favor of the resolution. She felt this was very important for the well-being of the community.

Don Yelton said he was not in support of this resolution because it took property rights away. He wanted to be involved in the planning process, suggesting lower taxes for those that used the proper colors. He suggested charging more to live near the Parkway.

Robert Deaver was in favor of the resolution and the protection of the view shed.

Commissioner Frost thanked the Chairman for his leadership in this issue and for caring about protection of the Parkway.

Commissioner DeBruhl said that she supported the resolution to study the Parkway

Vice Chair Belcher wanted the character of the Parkway preserved and moved to amend #2 in the resolution to add, after the words advisory board, the words "related to the Blue Ridge Parkway". Commissioner DeBruhl seconded. The amendment failed as follows:

AYES: Vice Chair Belcher; Commissioners DeBruhl and Fryar

NOES: Chairman Gantt; Commissioners Frost, Jones and Newman.

Commissioner Newman encouraged the Planning Board to look at all type of incentives or other approaches to protection.

The original motion passed as presented 7-0.

- **Authorizing the Chairman to Sign a Letter to the WNC Regional Air Quality Board**

Commissioner Newman said the public comment period for the renewal of the air quality permit for the Duke Energy plant in the county was still open. The facility had improved air quality over the last 10 years and their air permit was up for renewal. He said that the EPA standard was a good standard and by passing the letter the Board would be encouraging compliance as quickly as possible. He moved to have the Chairman sign the letter as presented. Commissioner Jones seconded.

Commissioner Fryar said that the same letter was read at the Air Quality Board hearing by Cecil Bothwell from the City Council. He asked the County Attorney if having the County copy this letter was plagiarism. *The County Attorney said there was no legal prohibition against copying the letter.* Commissioner Fryar talked about having cancer and the inability of anyone to know what caused his cancer. He also referred to measuring anything without proper instruments as related to the way Air Quality was unable to measure air quality in the way set out in the letter.

Rich Wash referenced the safe and unsafe levels of emissions stating that one out of every three days the plant's emission are too high. He said that Duke Energy has the ability to meet the current limit.

Bruce Clark wants the power plant to be healthier.

Gail Solomon Kemper was happy with the letter and wants Duke to comply.

JD Deckenbach wanted Duke to comply and Air Quality to apply a reasonable standards. He was in favor of the letter.

Lisa McGorder was in favor of the letter and wanted air quality to be improved.

Richard Fireman said he helped with the clean smokestacks act and was in favor of the letter. He said that asthma can kill and seeking the best air quality was the best thing to do.

Judy Maddox with the Sierra Club wanted a clear standard to be upheld by Duke and that the Air Quality Board follow the EPA standard instead of the permit previously given. She was in favor of the letter.

Don Yelton asked what the Air Quality experts think and asked why they weren't consulted.

Tim Brain was in favor of sending the letter.

Representatives from the WNC Air Quality Agency said that the air quality permit was renewed every five years and Duke's permit was up for renewal. Since their last permit was approved, regulations have changed to a new standard that is more restrictive; however, Duke Energy may not be impacted by these regulations. The EPA will determine whether or not Duke Energy would be part of the stricter regulations.

Following further discussion Commissioner Newman said that it was a very technical issue but the letter was asking that the scrubbers but used by the plant. Operational choices could be made now to make the plant run cleaner.

Commissioner Fryar was opposed to the letter.

Commissioner DeBruhl was opposed to the letter and the fact it was copied from the City Council and the Sierra Club. She felt it was unprofessional and political activism.

Vice Chair Belcher said that the letter was political. He loves clean air and clean coal but does not understand the information given and was opposed to the letter.

Commissioner Jones thanked the Air Quality Agency employees for their work and with her degree in public health she was interested in standing for clean air and wanted to err on the side of prevention.

The motion as presented passed as follows:

AYES: Chairman Gantt; Commissioners Jones, Newman, Frost

NOES: Commissioner Fryar, DeBruhl and Belcher

## Public Hearing

- **Rezoning Request: Biltmore Company – CS to CR**

Debbie Truempy, Zoning Administrator, said that the Biltmore Company had applied to rezone three parcels totaling over 6,000 acres including the estate. The Planning Board found this in compliance with the land use plan and after hold a public hearing moved to approve the request. The planning staff recommends the rezoning.

The Chairman opened the public hearing at 7:21 p.m.

No comments were taken.

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

Commissioner Belcher moved to approve the request finding it consist with the Land Use Plan and in the pubic interest. Commissioner Frost seconded and the motion passed 7-0.

- **Rezoning Request: Zach Penland – R-3 to CS**
- **Rezoning Request: Zoning Administrator – R-3 to CS**

Debbie Truempy, Zoning Administrator, said that these two requests were adjoining properties and were made by Zach Penland and the Zoning Administrator. The Planning Board and staff found these to be consistent with the land use plan and in the public interest and recommended approval of the rezoning as requested.

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

No comments were taken.

The Chairman closed the hearing at 7:27 p.m.

Commissioner Frost moved to approve the Penland request to rezone from R-3 to CS as presented.

Commissioner DeBruhl seconded and the motion passed 7-00.

Commissioner Belcher moved to approve the request made by the Zoning Administrator to rezone from R-3 to CS as presented. Commissioner DeBruhl seconded and the motion assed 7-0.

## New Business

- **Resolution Protection County Sales Tax Revenues**

Commissioner Jones said that this resolution was the result of the report that the County Manager gave highlighting certain state bills that could cause the County to lose millions in sales tax revenues. She read the resolution and asked the Commissioners to support its approval. Commissioner Frost seconded.

Commissioner DeBruhl pointed out that the County had no majority representation in Raleigh and that the local delegation had not been able to deliver. She moved to amend the resolution to say that no County delegation member was a member of the majority party in Raleigh. Commissioner Belcher seconded.

The amendment failed as follows: 4-3

AYES: Vice Chair Belcher; Commissioners DeBruhl and Fryar

NOES: Chairman Gantt; Commissioners Frost, Jones and Newman

Commissioner Belcher moved to drop the word "strongly" in #1. Commissioner DeBruhl seconded.

The amendment passed as follows: 7-0.

The resolution with the amendment passed as originally moved as follows: 7-0.

- **Resolution Supporting Art, History and Culture in Buncombe County**

Kitty Love, Director of the Arts Council, reviewed how they work with artists and the local creative industry. She referenced the economic impact of the culture and art events to the community. She said that she was in favor of the resolution and the power of public art in the community and that public art speaks to the love of a sense of place and history.

The Chairman asked the Board to approve the resolution supporting art, history and culture. He said that there had been no new art projects since he was a Commissioner. He broke the resolution into three parts beginning with the proposed history wall in the new judicial center.

Chairman Gantt moved to authorize the County Manager to work with various local Art, History, and Cultural organizations to create a history wall in the Buncombe County Courthouse with a budget of up to \$25,000 to fulfill the concept of a large display memorizing the colorful and rich history of Buncombe County. Final approval of the design should be made by the County Commissioners. Commissioner Frost seconded

Vice Chair Belcher and Commissioner Fryar asked that the County Manager use existing historical items and data from the County library and include displays in other buildings.

The motion passed 7-0.

The Chairman moved to direct the County Manager to contact local arts and history organizations including the NC Department of Cultural Resources, Art Museum, Arts Council and WNC Historical Association and others to secure temporary Art, History and Cultural displays for the New and Old Courthouse and other county facilities.

Commissioner Frost seconded and the motion passed 7-0.

Chairman moved to authorize and direct the County Manager to begin a request for proposals from local artists with the help of art, history and cultural organizations, on an outside monument near the entrance of the Courthouse with a budget of up to \$50,000 to finalize the projects. Final approval of the design would be made by the County Commissioners. Commissioner Frost seconded the motion.

Commissioner Fryar was opposed to spending \$50,000 and he was opposed to any new art.

Brian Moffitt with the Historic Resources Commission expressed his interest in the project and the artistic aspects urging the Board to use all local resources and feedback.

Don Yelton talked about timber and the hard times that were experienced by the natives of the area. He suggested that the true cultural history be reflected in the art.

Commissioner Jones said that portions of the African American history of the area should be included as well.

The County Manager said that this would be in the 2016 budget and the results of the RFP would be brought back to the Board.

The motion passed 7-0.

- **Resolution Setting Staggered Terms for the Planning Board Members**

Commissioner Belcher moved to approve as written. Commissioner Newman seconded the motion. (*Commissioner Fryar proposed an amendment that was not accepted*)

The motion passed 7-0.

- **Setting Terms for the Women's Commission**

Commissioner Jones moved to set the terms of the members of the Women's Commission as follows: Catherine Campbell, Melisa Giddens, Carol Polsgrove, Maggie Hoop, Carrie Myers, Stephanie Biziewski, and Caroline Brigmon would serve a one year term; Lisa Walker, Terry Bellamy, Mindy Fisher, Margaret Barry, Sharon West, Hillary Salvati and Catherine Cottam would serve a 2 year term; and Teresa Oursler, Shelley Brown, Wendy Marsh Jacqueline Brannon, Deborah Calhoun and Catherine Mitchell would serve a three year term. Commissioner Frost seconded and the motion passed 7-0.

## **Board Appointments**

By a poll of each Board member, **Jon Creighton** was unanimously appointed to the **Metropolitan Sewerage District Board**.

Vice Chair Belcher moved to appoint **Brad Alexander** and **Anne Butzner** to the **Adult Care Home Community Advisory Board**. The motion passed 7-0.

Commissioner Jones moved to appoint **Ed Schell** to serve on the **Opportunity Corporation Board of Director**. The motion passed 7-0.

## **Announcements**

The Chairman made the following announcements:

- *May 19 – 4:30 p.m. – The next regular meeting of the Board in Room 326 at 200 College Street in downtown Asheville*

Commissioner Frost moved to go into closed session pursuant to GS 143-318-11a (4) to consider an economic development matter. Commissioner Jones seconded and the motion passed 7-0.

## **Closed Session**

Jon Creighton, Assistant County Manager/Planning Director, presented a possible economic development incentive for a locally owned company that would add 90 jobs with an average wage of \$40,000. The Board gave consensus to make an incentive offer.

Mr. Creighton presented another possible incentive for a company considering location in the County with a \$327 million investment, bringing 350 jobs over 5 years that pay an average wage of \$47,000. The Board gave consensus to pursue a possible incentive offer with this company.

Commissioner Frost moved to return to open session. Vice Chair Belcher seconded and the motion passed 7-0.

Commissioner Jones moved to adjourn the meeting. Commissioner Fryar seconded and the motion passed 7-0.

The meeting was adjourned at 8:40 p.m.

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KATHY HUGHES, CLERK TO THE  
BOARD OF COMMISSIONERS

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DAVID GANTT, CHAIRMAN  
BOARD OF COMMISSIONERS