

**MINUTES OF BUNCOMBE COUNTY BOARD OF COMMISSIONERS'  
REGULAR MEETING OF OCTOBER 17, 2017 AT 5 P.M.**

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**BE IT REMEMBERED:** That the Board of Commissioners met in regular session on October 17, 2017, in the Commission Chambers, 200 College Street, Room 326 in downtown Asheville, North Carolina at 5 p.m. where and when the following business was transacted:

The Chairman called the meeting to order with the following members present:

Brownie Newman, Chairman  
Ellen Frost, Vice Chair  
Joe Belcher, Commissioner  
Mike Fryar, Commissioner  
Jasmine Beach-Ferrara, Commissioner  
Robert Pressley, Commissioner  
Al Whitesides, Commissioner

Staff present: Mandy Stone, County Manager; Jon Creighton; Assistant County Manager/Planning Director; Jim Holland, Assistant County Manager/HHS Director; Tim Flora, Finance Director; Kathy Hughes, Clerk to the Board; Mike Frue, Senior Staff Attorney.

## **PLEDGE OF ALLEGIANCE**

## **INVOCATION**

The Chairman asked for a moment of silence for creation.

## **PUBLIC COMMENT**

Don Yelton asked about the cost of operating each library including the cost per number of books checked out. He questioned the cost of e-books and regular books and wanted more public comment.

Stan Hawkins referred to attachments that were not accessible from the last meeting. He suggested with review of accounting and compliance for human resource management.

Ann Gerome commented on the salaries of County employees and the \$1.5 million lost. She wanted employees to return money.

Jerry Rice commented on bond ratings and savings and wanted the schools to be held accountable to find cost savings. He said that the prior County Manager would not review the education budget and he suggested that the construction budgets be reviewed.

*Josh O'Connor, Parks and Recreation Director, gave a general overview of the consent agenda item entitled "**Resolution Authorizing the Execution of a Grant Agreement and Interlocal Agreement Regarding the Woodfin Greenway & Blueway**" saying that this agreement with the Tourism Development Authority will help fund the Woodfin Greenway. The Vice Chair said that she would support this resolution but felt that a memorandum of understanding (MOU) with the Town of Woodfin would be a good idea. The Senior Staff Attorney said that a formal MOU would be drafted as part of the resolution. Commissioner Belcher suggested that staff be directed to draft a MOU with the Town of Woodfin that would include everything already done and everything that has yet to be done before any further work is completed. Mr. O'Connor said that maintenance of the greenway will be the responsibility of the Town of Woodfin and NCDOT.*

## **CONSENT AGENDA**

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

- **Approval of Minutes of September 19, 2017 Regular Meeting**
- **Grant Project Ordinance**
- **Resolution Authorizing the Execution of a Grant Agreement and Interlocal Agreement Regarding the Woodfin Greenway & Blueway**
- **Resolution Authorizing Execution of a Temporary Construction Easement for Sewerline to be Connected to Existing Metropolitan Sewerage District Lines**
- **Resolution Authorizing Acceptance of Request from Asheville Humane Society for Donation of Surplus Vehicle**

- **Resolution Declaring Ambulance Vehicles as Surplus Property and Donating the Barnardsville Vol. Fire Department**
- **Resolution Authorizing the Use of Facsimile Signatures**
- **Resolution Authorizing the Acceptance of Changes to Application for Affordable Housing Services Program**
- **Resolution Authorizing Execution of an Easement for Fiber Line to Provide Internet for a portion of the Biltmore Estate**

## **GOOD NEWS**

- **Proclamation of November as National Family Caregiver Month**

Commissioner Belcher read the proclamation and moved for its approval. He presented the proclamation to Carol McLimans, Family Caregiver Specialist with the Land of Sky Regional Council who accepted the proclamation on behalf of the Council.

- **LGFCU Outstanding Program Award**

Matt Guttman with the NCACC presented the Outstanding Program Award to the Election Services staff for their work during the 2016 election season. He said that the Local Government Federal Credit Union sent a check as part of the award in the amount of \$1000. Election Services staff won the award in the category of technology and information for automation of the election process that saved money and increased efficiency.

- **Election Management Tools**

Trena Parker, Election Services Director, gave a power point presentation that outlined the work they did that was awarded the Outstanding Program Award from the North Carolina Association of County Commissioners. She reviewed the tools and innovations that increased efficiency in getting election information to the public. Matt Baker reviewed the Election Services dash board that accesses information directly from the State Board of Elections to show election results.

## **PUBLIC HEARINGS**

- **Rezoning Request – Christian Jon Albers (R-2 to CS) at 620 New Leicester Highway**

Debbie Truempy, Zoning Administrator, said that this request was reviewed by the Planning Board and found to be consistent with the Land Use Plan and in the public interest. The Planning Staff also recommends approval of this rezoning. The Planning Board held a public hearing and no one expressed opposition to the rezoning.

The Chairman opened the public hearing at 5:56 p.m. No comments were taken. The hearing was closed at 5:57 p.m.

Commissioner Belcher moved to approve the rezoning finding it Vice Chair Frost seconded and the motion passed 7-0.

Commissioner Belcher moved to approve, Vice Chair Frost seconded and the motion passed 7-0.

- **Chapter 78 – Zoning Ordinance – Text Amendment**

Debbie Truempy, Zoning Administrator, said that staff initiated the text amendments to comply with recent changes in state law. The Planning Board held a hearing and found the changes consistent with the land use plan, reasonable and in the public interest.

The Chairman opened the public hearing at 5:59 p.m. No comments were taken and the hearing was closed at 6 p.m.

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

- **Mountain Mobility Capital Grant Application to NCDOT**

Matthew Cable with County Planning explained the need to hold a public hearing on the FY2019 Section 5311 Administrative and Consolidated Capital Grant applications to be submitted to the NCDOT for

Mountain Mobility, Buncombe County's Community Transportation Program. He reviewed the work of Mountain Mobility, the clients they serve and the routes that they travel as well as the amount of grant funds that would be received and how the funding would be used. This information was attached to the minutes of this meeting.

The Chairman opened the hearing at 6:04 p.m.

Don Yelton asked about the costs for routes, rider miles and how many people are at each stop. He wanted this information to be available for this program and all county programs.

The Chairman closed the hearing at 6:05 p.m.

The Chairman said that all that data does exist for Mountain Mobility and was available for anyone interested.

Commissioner Beach-Ferrara moved to approve the resolution. Commissioner Whitesides seconded and the motion passed 7-0.

## **COUNTY MANAGER'S REPORT**

- **Summary of Organizational Changes to Mitigate Risk**

The County Manager gave a power point that is attached to the minutes of this meeting. She reviewed the changes that had been made since July 1 when she took over as the County Manager as well as some additional changes that would be made in the future. She said that one person does not reflect the integrity of the organization. Out of the top ten urban Counties in North Carolina, she said Buncombe had the least expensive Assistant County Manager structure based on dual roles of each Manager; the dual role structure she planned to change moving forward. She said that staff would be reporting to the Board within 90 days of the completion of a new employee compensation study.

Commissioner Beach-Ferrara thanked the County Manager for her work. She said that the Board is accountable for what happens in the County.

Vice Chair Frost thanked the County Manager for her work. She said that the mess is on the Commissioners and she thanked her for the progress and supported the changes that had been enacted. She said that the employees were not the bad guys and was looking forward to the pay study and what can be done in the future.

Commissioner Fryar thanked the County Manager and staff for what they have done in 90 days. He said that the Board is responsible but that the County Management is working to set the right direction and he expressed his confidence in those efforts.

Commissioner Whitesides thanked the County Manager and staff saying that we look back with 20/20 vision so that we don't make the same mistakes again. He said that in doing so we will regain the confidence of the people of Buncombe County.

Commissioner Belcher challenged the media to reflect the exceptional plan that would move the County forward and the commitment that the Board had for moving the County in a positive direction.

Commissioner Pressley thanked the County Manager saying that the past can't be changed but moving forward looks positive.

## **NEW BUSINESS**

- **Strategic Partnership with Community Action Opportunities to Expand Pre-K to Lonnie Burton Child Development Center**

Rachael Nygaard, Director of Strategic Partnerships, introduced Brian Repass with Community Action Opportunities who presented the expansion of Pre-Kindergarten classroom at the Lonnie Burton Child Development Center. Ms. Nygaard asked the Board to approve reallocate of \$40,000 toward this classroom. This funding was originally designated for the Johnston classroom; however, the classroom was able to leverage funding from NC Pre-K. Mr. Repass said that they were pleased to partner with Buncombe County for an additional classroom to help 18 additional kids from qualified families.

Commissioner Beach-Ferrara thanked the staff for working on this program.

- **Resolution Adopting Revisions to the Buncombe County Economic Development Policy**

Jon Creighton, Planning Director, presented the changes to the current economic development policy. A power point presentation outlining the changes as well as a red lined policy are attached to the minutes of this meeting.

Rachel Nygaard, Strategic Partnership Director, said that the budget amendment would reduce approximately \$1.4 million in uncommitted incentive funds, retail approximately \$3 million committed to 7 active projects, and redirect \$200,000 to small business development working toward equity and building partnerships and \$250,000 toward Pre-K for teacher recruitment incentives and classroom support.

Commissioner Belcher clarified the uses of the pre-k funding. Vice Chair Frost said that the changes only clarify what businesses must do to qualify for county funding.

Lisa Cook, member of the Women's Commission, said that they support pre-k education and feel this is a huge step in improving the lives of county women and their families.

Commissioner Belcher clarified that economic incentives will be voted on as they come up and will also review these allocations annually.

Commissioner Beach-Ferrara said that this had been discussed at work sessions to work through these issues. She invited community members to attend work sessions in the future.

Vice Chairman Frost moved to approve the economic incentive investment policy changes as presented. Commissioner Whitesides seconded the motion and it passed 7-0.

Commissioner Frost moved to approve the budget amendment. Commissioner Beach-Ferrara seconded and the motion passed 7-0.

- **Resolution Committing Buncombe County to 100 Percent Renewable Energy**

The Chairman gave a power point presentation that is attached to the minutes of this meeting in support of the resolution that he read into the record.

The Chairman moved to approve the resolution. Commissioner Beach-Ferrara seconded the motion.

Kathy Holt spoke in favor of renewable energy as a great job creator for the long term in our community.

Kendall Hale said that global warming will eventually affect us all. She said that renewables will help slow global warming but moving in this direction is a smart direction.

Kathy Shot wanted bold action and said that support of this is spending tax money in the smartest way. She said that climate change will bring very expensive changes to our area.

Rick Slosch wants to leave his children a better world with environmental leadership. He wants 100 percent renewal energy goal by 2027.

Scott Harderinary, Director of Creation Care Alliance, spoke in support of the renewable energy goal. He said that he spoke for many faith communities that would support renewable energy and support of creation.

Brad Ralph, Energy Savers Network and member of the Energy Innovation Task Force said that this is a global problem but we must be dependent on what we can do locally and individually.

Stephie Ralph, Climate Lobby representative, said that bi-partisan support is encouraged. She wanted to end the climate divide and get support from both sides of the political parties.

Taylen Breden spoke in favor of renewable energy as it creates more jobs than fossil fuels.

Holten Sanglory thanked the Board for the proposal saying that several counties had already moved toward 100 percent renewal energy.

Tyler Garrison said he was part of several non-profits that had formed a coalition to support 100 percent renewal energy. He urged the Board to adopt the resolution.

Robert Lane said he was a retired petroleum employee who supported the resolution and felt it was doable. He said that the affordability of making this happen is possible and is going to happen based on the business outlook of the big providers.

Lynn Shosie read a letter from Eliasa Vaughn a young person from the County who was speaking in favor of renewable energy.

Tim Braine said this should be an easy decision because it was the right thing to do and the County was already on track to move toward the goal. He said that Duke Energy had requested to raise electricity rates by 17 percent in the County.

Dave Hollister, CEO of Sundance Power Systems and member of the Energy Innovation Task Force, said that the people want this resolution passed. He said that they should be talking about how to get to 100 percent renewable energy.

Don Conaso spoke in favor of the 100 percent energy to improve the quality of life.

Jessica Coulson spoke in favor of the resolution to slow climate change and global warming.

Mike Ellis talked about how much it costs to have solar energy and how the costs have been reduced. He was in favor of approving this resolution.

Don Yelton asked how much energy the County would need to move to renewable energy. He said that solar panels have batteries and metal that will need to be disposed. He was opposed to the resolution.

Jerry Rice was opposed to the resolution and suggested boycotting China merchandise. He said that this resolution would not solve anything. He said that current appliances don't last and are contaminated.

Danielle Holt, student of UNC-Asheville, urged the Board to support the resolution.

Ben Stockdale, Renew AVL, urged the Board to support the resolution.

Commissioner Whitesides said that he agreed that the environment was changing and he suggested that more homework be done before this was passed. He said that the County should review the costs involved in moving toward the goal of 2030.

Commissioner Pressley agreed that he wanted to know more about what can and can't be done on this topic. He said that the goal of cleaner energy was a good goal but cautioned moving forward without adequate details. He wanted to know the cost and who would pay for it.

Vice Chair Frost proposed that the Board devote a workshop to this sooner than later. This is very important and as a whole board should find out more about what can be done and how much it would cost.

Commissioner Fryar moved to postpone this issue for 90 days to get more information before moving forward.

Commissioner Belcher said that he wanted a balanced energy policy and this goal must be balanced with other issues that are happening. He would support the 90 day delay.

Vice Chair Frost suggested amending the motion to have a resolution put on first meeting after the workshop on November 14.

Chairman Newman said that declaring the goal is the easy part and he wants to move ahead by passing the resolution today without delay. He said that this was a policy resolution that would direct the staff to move forward.

Commissioner Beach-Ferrara agreed that a workshop would be good but articulating the goal is too important to wait. She was in support of the resolution and work session.

The Vice Chair said that she wanted more detail and felt that the adoption of these goals should receive a unanimous vote.

Commissioner Whitesides said he could vote on November 21 after a work session.

The motion to adopt the resolution failed as follows:

YES: Chairman Newman; Commissioner Beach-Ferrara

NOES: Commissioners Fryar, Pressley, Belcher, Frost and Whitesides

- **Discussion/Selection of Law Firm Regarding Opioid Crisis**

Brandon Freeman presented the results of the request for information for legal counsel that was put out on September 19 to assist the County in litigation around the opioid crisis in the County. He noted three of the firms that stood out as having the most experience with this type case. He thanked the Board for working to hear from these firms and gave a brief overview of each of the top three.

Motley Rice, LLC, (referred to hereinafter as "Motley Rice"); Greene, Ketchum, Farrell, Bailey & Tweel, LLP; Levin, Papantonio, Thomas, Mitchell, Rafferty & Proctor, PA; Baron & Budd, PC; Hill Peterson Carper Bee & Deitzler PLLC; McHugh Fuller Law Group; and Seagle Law (referred to hereinafter as "Barron and Budd"); and Ron L. Moore, P.A.; the Mike Moore Law Firm, LLC; McGowan, Hood & Felder, LLC; Richardson, Patrick, and Westbrook & Brickman, LLC; (hereinafter referred to as "Ron Moore") are three of

the top contenders. All of these groups were willing to represent the County on a contingency basis with no fees charged unless there was a positive outcome and then they would take a percentage of the award.

The County Manager said that the staff feels that Barron and Budd was more closely aligned with the direction the County wanted to proceed. All three were willing to update the County often and would consider the County as their client and be responsive. The County could also withdraw from the lawsuit at any time as well.

Mike Fuller of the McHugh Fuller Law Group and a representative of the Baron and Budd group gave a review of who they represent nationwide saying that manufacturers as well as distributors, are now part of the litigation. The annual income of distributors is over \$450 billion.

Commissioner Belcher moved to accept the staff's recommendation to retain Baron and Budd to move forward with the litigation against opioid manufacturers and wholesale distributors and to declare the opioid epidemic in the County a public nuisance that is impacting the public at large in Buncombe County. Vice Chair Frost seconded the motion.

Ron Moore spoke in favor of having his firm hired. He thanked the Board for the opportunity to advocate for Mike Moore (Ron Moore Group) who was the tobacco road lead litigator and a pioneer in settlements. He listed the reasons that he wanted the Board to choose his firm who was known as the "opioid avenger." He said that Mr. Moore has a personal link and passion for the job.

Don Yelton and Jerry Rice said they felt that opioid addiction was a serious problem. Mr. Rice wanted to hear about the expected outcome and goal for the lawsuit.

Vice Chair Frost said that the community was devastated by opioid addiction and the Board was hopeful that these attorneys would be warriors for the community and help the County obtain resources from those that contributed to this epidemic that can be used in the community for relief from the opioid epidemic.

The Chairman thanked all three of the groups that responded and asked if the details of representation could be reviewed in regard to the fee structure. The County Manager said that there would be opportunity for further discussion. She said that system change is needed both in our County and statewide. This firm, Barron and Budd, has a game plan and is ready to move forward as soon as possible. The motion passed 7-0.

## **Advancing the FEMA payment for Skyland Volunteer Fire Department**

Tim Flora, Finance Director, said that a payment was made to the Skyland Fire Department this week to forward pay funds that the Department was due from a FEMA reimbursement.

## **ANNOUNCEMENTS**

The Chairman made the following announcement and adjourned the meeting:

- *November 7 – 5 p.m. Regular Meeting Board of Commissioners in Room 326 @ 200 College Street in downtown Asheville*
- *November 10 – County Offices will be closed for Veterans Day*
- *November 14 – 12:30 p.m. Commission Workshop @ 200 College Street, First Floor Conference Room in downtown Asheville*

Vice Chair Frost moved to adjourn the meeting. Commissioner Whitesides seconded the motion which passed 7-0. The meeting was adjourned at 9:45 p.m.

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KATHY HUGHES, CLERK  
BOARD OF COMMISSIONERS

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BROWNIE NEWMAN, CHAIRMAN  
BOARD OF COMMISSIONERS