

**MINUTES OF BUNCOMBE COUNTY BOARD OF COMMISSIONERS'
REGULAR MEETING OF AUGUST 6, 2013 AT 4:30 P.M.**

BE IT REMEMBERED: That the Board of Commissioners met in regular session on August 6, 2013, 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
Holly Jones, Vice Chair
Joe Belcher, Commissioner
Ellen Frost, Commissioner
Mike Fryar, Commissioner
David King, Commissioner
Brownie Newman, Commissioner

Staff present was: Wanda Greene, County Manager; Mandy Stone, Assistant County Manager; Jon Creighton, Assistant County Manager/Planning Director; Donna Clark, Finance Director; Mike Frue, County Attorney; Kathy Hughes, Clerk to the Board.

PLEDGE OF ALLEGIANCE

INVOCATION

The Chairman gave the invocation.

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.

PUBLIC COMMENT

The Chairman reviewed the rules for public comment:

The time limit for any comment to the Board is three minutes. If your time expires then you may leave any questions along with your name, address and phone number with the County Manager. Board members are not expected to comment on matters during public comment. Comments should be limited to subjects that are within the jurisdiction of this Commission or pertain to matters upon which it may act. Any individual speaking during public comment shall address the entire Board. Any polling of Board members is inappropriate. Persons addressing the Board are expected to observe the decorum of the Chamber, and to be respectful of everyone in the room. Any person who willfully interrupts, disturbs, or disrupts the session will be asked to leave the meeting. The Board reserves the right to deny public addresses on a subject previously presented to the Board.

Nela Holt thanked County staff for work on the house that is sliding.

Lisa Baldwin, County School Board member from Fairview, spoke regarding the Enka Intermediate School property. She was opposed to building another intermediate school and wanted a professional investigation before moving forward.

Michele Pace Wood said she had a daughter in the Enka School district and along with most of the parents in the district, was in favor of a new school.

John Sutton, parent from the Enka District, spoke on behalf of parents and businesses in Candler in support of the building of a new school.

Jerry Rice said that he was in favor of some improvement in Enka but he was opposed to the site chosen. He said that Hominy Creek, which runs through the proposed site, was contaminated and he suggested another site be chosen.

Eileen Sutton spoke in support of the new Enka School stating that all the businesses in the area were in favor of this site.

DISCUSSION/ADJUSTMENT/APPROVAL TO FOLLOW AGENDA

Commissioner Frost moved to approve the agenda with some changes in the order that will be reflected in the minutes. Vice Chair Jones seconded and the motion passed 7-0.

- Approval of Minutes of June 25, Regular Meeting and July 18, Special Meeting
- Approval of Tax Settlement
- Approval of Order to Collect Taxes
- Approval of Insolvents List for 2012
- Ordinance Amending Chapter 14, Article IV Adult Establishments of the County Code

- Approval of Governors Highway Safety Grant Application
- Resolution Approving Sole Source Purchase
- Resolution Approving Pyrotechnic Experts for Firework Displays
- Resolution Accepting and Approving a Report from the County Purchasing Agent Concerning the Sale and Disposal of Surplus County Property
- Resolution Restricting Broadcasting and Recording at Certain Locations in the Buncombe County Courthouse and Buncombe County Properties
- Resolution Authorizing the Execution of an Agreement between Buncombe County and CDM Smith for an Organic Waste Processing Feasibility Study
- School Capital Commission Fund Project Ordinance
- Grant Project Ordinance

PUBLIC HEARING

- **Transfer of Asheville's Extra-Territorial Jurisdiction (ETJ)**

Debbie Truempy said that the North Carolina General Assembly ratified Session Law 2013-30 which removed the authority of the City of Asheville to exercise land use regulation within an ETJ area. The law dictated that Asheville's jurisdiction remains in effect until Buncombe County adopts zoning regulation in the area, or after 120 days, whichever occurs first. The Planning Board has met on multiple occasions to consider the ramifications of the Session Law, moved to sponsor the proposed map amendments, and has passed a resolution recommending the adoption of the proposed amendments by the Board of Commissioners. If the Board of Commissioners does not adopt the proposed map amendments, then the area currently defined as the City of Asheville's ETJ will become unzoned at the end of the 120-day period (August 15, 2013). All other permitting will transfer from the City to the County; however this area would no longer be regulated by any type of zoning or land use restrictions. She said that residents have 90 days to apply for a rezoning of their area at no cost.

Commissioner Belcher asked that residents be contacted so they know they have 90 days to apply for rezoning.

Vice Chair Jones suggested that everyone be contacted by letter to clarify for the property owners who was in charge of the zoning in their area.

The Chairman opened the public hearing at 5:47 p.m.

Jerry Rice thanked the Board for supporting additional information to the public about this change. He complained about the zoning signs that are used to announce meetings.

Wayne Marshall wanted to know how his property would be zoned.

The Chairman closed the hearing at 5:51 p.m.

Commissioner Belcher moved to approve the expansion of Buncombe County zoning to include areas currently within the City of Asheville's Extraterritorial Jurisdiction (ETJ) as recommended by the staff. Commissioner Newman seconded and the motion passed 7-0.

Commissioner Belcher moved to instruct staff to notify each impacted property owner by letter within 30 days that they have 90 days to appeal their zoning designation. Commissioner Newman seconded and the motion passed 7-0.

- **Rezoning Request – Rosenberger on Charlotte Highway from RLD to NS on a portion of PIN 9677.21.2223**

Debbie Truempy said that Mr. Rosenberger applied for a rezoning of a portion of his property as shown on the maps attached to the minutes of this meeting. Staff recommended the denial of the request and the Planning Board recommended approval of the request at their June 17, 2013 meeting in a vote of 4 to 1. The Planning Board held a hearing on June 17 and three people spoke with concerns against the rezoning.

Commissioner Fryar said that the owners of the property should be allowed to do with the property whatever he wants. He was in favor of rezoning.

The Chairman opened the public hearing at 4:58 p.m.

Alan Helmick, Realtor with Keller/Williams said that he was a partner with the owner and petitioner for this property. He wanted the 10 acre site turned to commercial so he could develop the property.

David Holt, resident of the area, felt the location was not a safe place for commercial development.

Jeremy Jones, resident of the area was opposed to the rezoning for safety concerns.

Frank Wartman, resident of Fairview was opposed due to safety concerns.

Diana Donatella, resident of Cedar Mountain Road was opposed to any development in the area that would make the area more unsafe.

Darren Stroup, resident of Cedar Mountain Road felt the rezoning would have a negative impact on the neighborhood

Jamie Young, a native of Fairview, said that the area was not safe and asked that the rezoning be denied due to safety issues.

Steve Smizer from Fairview said that nothing had changed since the zoning petition was denied in 2010 and the rezoning petition should be denied again. He spoke on behalf of the NC Wildlife Federal stating that this area was a designated migration corridor going east and west.

Linda Suvanta from Cedar Mtn. Road spoke in opposition to the rezoning because it would not be compatible with the neighborhood. She submitted, for the record, a petition from the neighborhood with 16 names of residents who were opposed to the rezoning.

Page Huntley was opposed to the rezoning and was not in support of more commercial development.

Karen Frye shared her concerns over the traffic safety and asked that the rezoning be denied.

Goodson Sinclair was very opposed to the rezoning and the loss of wildlife.

The Chairman closed the public hearing at 5:26 p.m.

Commissioner Frost moved to deny the request for rezoning. Vice Chairman Jones seconded the motion.

Commissioner Frost said that she visited the site and agreed with all the reasons given by the citizens.

Commissioner Belcher said he visited the site and felt it could be sold for residential.

Commissioner King did not want to see another great wall or similar mistake happen on this property.

Commissioner Fryar said that he was in favor of the rezoning and for property rights.

Chairman Gantt said that this is a very dangerous road and he felt the request should be denied.

The motion passed 6-1

AYES: Chairman Gantt; Vice Chairman Jones; Commissioners Frost, Belcher, King

NOES: Commissioner Fryar

NEW BUSINESS

- **Resolution Approving Purchase Price of Property for Enka Intermediate School**

Dr. Tony Baldwin, County School Superintendent, thanked the Board for the local appropriation of funds that would help reduce the impact of State budget cuts on teacher assistants. He said that the long range planning project included the purchase of property for Enka Intermediate School. Tim Fierle explained the work the School Board had done along with a team of professionals in review and design on the site.

Commissioner Belcher thanked the school board for their work. He felt it was time for Enka to have a school like the one proposed.

Commissioner Newman said that this is a great location and good to see this move forward.

Commissioner Frost moved to approve the resolution. Commissioner King seconded and the motion passed 7-0.

- **Ordinance Creating the Buncombe County Culture and Recreation Authority**

Wanda Greene, County Manager, said that this ordinance will create the Culture and Recreation Authority (CRA) with a 7 member board. The new administration will be housed on the upper level of Pack Library and Ed Sheary, Library Director, will manage the transition.

She asked the Board to approve the Ordinance creating the authority and to appoint up to 7 of the County Commissioners to serve temporarily until the full authority, made up of at least one Commissioner can be appointed.

Vice Chair Jones moved to approve the ordinance amending Section 10 by adding the following change "... and the respective members of these board are transferred to the Authority Board as advisory committees." Commissioner Frost seconded and the motion passed 7-0.

Commissioner Frost moved to appoint David Gantt be Chairman of the CRA. Commissioner King seconded and the motion passed 7-0--It was pointed out by the County Attorney that this Commission could not appoint the Chair that would have to be done by the temporary CRA. The motion and second were withdrawn.

Chairman Gantt moved to appoint Commissioners Belcher and Frost and himself into the seats serving 3 year terms; Commissioners Jones and Newman into the seats for 2 year terms and Commissioners Fryar and King into the seats serving 1 year terms on the Culture and Recreation Authority to complete administrative duties. They would serve only until other board members could be appointed. Commissioner Newman seconded and the motion passed 7-0.

The newly appointed CRA agreed to meet on August 9 at 8:30 a.m. at 200 College Street, Room 326 to appoint the Chair and authorize the Chair to sign all administration documents as needed.

- **Resolution Authorizing the Execution of an Agreement Between Buncombe County and CDM Smith for an Organic Waste Processing Feasibility Study**

Jon Creighton said that this would be a feasibility study with the City of Asheville to look at ways of dealing with organic waste from city residents and businesses.

Cathy Ball, Assistant City Manager, said that the City is trying to reduce the material that goes to the landfill and would investigate the creation of a composting facility at the landfill site that would benefit both the city and county. This agreement will share the costs and then bring a recommendation.

Commissioner Newman moved to approve the resolution as presented. Commissioner Frost seconded and the motion passed 7-0.

- **School Capital Commissioner Fund Ordinance**

Donna Clark, Finance Director, said that this ordinance covered the Article 39 tax that would fund the Enka Intermediate School.

Commissioner Belcher moved to approve the Ordinance as presented. Commissioner King seconded and the motion passed 7-0

BOARD APPOINTMENTS

Commissioner Belcher moved to appoint **Jon Creighton** to the **Asheville Buncombe Regional Sports Commission**. The motion passed 7-0.

Vie Chair Jones moved to appoint **Andrea Block** to the **Crime Stoppers Board of Directors**. The motion passed 7-0.

ANNOUNCEMENTS

- The next meeting of the Board will be August 27 at 4:30 in Chambers
- *Commission meetings can be seen on:*
 - *BCTV Charter Cable Channel 2*
 - *AT&T U-Verse Channel 99*
 - *Live on buncombecounty.org during the meetings or*
 - *Online anytime at buncombecounty.org*

The County Attorney said that the Board would need to go into closed sessions pursuant to G.S.143-318.11A(3) for two potential legal matters; (4) one economic development matter and (6) a personnel matter. He said there could be action needed after closed session.

Commissioner King moved to go into closed session for the reasons cited by the County Attorney. Commissioner Fryar seconded and the motion passed 7-0.

CLOSED SESSION

Discussion was held regarding a legal matter involving the Settings of Black Mountain and the Town of Black Mountain. The Board authorized the County Attorney to handle the settlement of this matter.

Discussion was held regarding a potential economic development incentive previously granted to an existing business. No action was taken.

Discussion was held regarding a worker's compensation settlement. The Board gave consensus to have the County Attorney negotiate settlement in this case.

Discussion was held regarding a personnel matter. No action was taken.

KATHY HUGHES, CLERK
BOARD OF COMMISSIONERS

DAVID GANTT, CHAIRMAN
BOARD OF COMMISSIONERS