

**MINUTES OF BUNCOMBE COUNTY BOARD OF COMMISSIONERS'  
REGULAR MEETING OF JANUARY 6, 2014 AT 6:30 P.M.**

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**BE IT REMEMBERED:** That the Board of Commissioners met in regular session on January 6, in the Commissioner Chambers, 200 College Street, Room 326 in downtown Asheville, North Carolina at 6:30 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; Mandy Stone, Assistant County Manager/HHS Director; Jon Creighton, Assistant County Manager/ Planning Director; Donna Clark, Finance Director; Mike Frue, Senior Staff Attorney; 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**

Evan Holmes asked that the County secure the soil on the empty lot in the subdivision that had a home condemned and removed to prevent it from sliding. The Chairman asked that the Planning Director speak with Mr. Holmes.

Barry Durrant, member of the Mills Gap Road Contamination Advisory Group, said he had attended several brownfield conferences and EPA forums and he wanted the Board to recognize that children are more susceptible to damage from contamination. He was concerned about the construction of a school on the old Enka Plant site and requested that the site be fully investigated.

Jerry Rice asked that the Board reduce the tax rate and stop hiding money. He asked about the future of Lake Julian Park and what the plans were for the revenue from the sale of the Chestnut Street Property. The County Manager said that the property had been sold for mental health purposes.

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

Commissioner Frost moved to approve the consent agenda --moving the *Resolution Accepting Offer to Purchase County Property* to new business and removing the *Resolution Amending the Rules and Procedures for the Board of Commissioners*. Vice Chair Belcher seconded the motion and it passed 7-0.

- **Approval of December 1, 2014 Regular Meeting**
- **Resolution Donating Surplus Vehicles to Madison County Sheriff**
- **Resolution Approving Request to Abandon a Portion of State Road 3420**
- **Allow Tax Department to Advertise Delinquent Real Estate Property Tax Liens on March 22, 2015**
- **Resolution Granting Stormwater Easement to High Country Land Holdings LLC and Anderson/Asheville LLC**
- **Budget Amendments**
  - **Library Services Grant \$66,750**
  - **Federal Funds for CHIP \$20,625**
  - **Federal Funds for immunization Rules Awareness \$34,408**
- **Grant Projects Ordinance**
- **Special Project Ordinance**
- **PDF Woodfin Downtown District Capital Projects Ordinance**
- **Release Report**

## **PUBLIC HEARINGS**

- **Rezoning Request: Bruce & Sheila Gasperson R-2 to RLD**

Josh O'Connor, Zoning Administrator, explained the rezoning request stating that it was recommended for approval by the Planning Board and the Planning Staff. It was consistent with the land use plan and in the best interest of the citizens.

The Chairman opened the public hearing at 4:56 p.m.

No comments were taken and the hearing was closed at 4:57 p.m.

Vice Chairman Belcher moved to approve the requested rezoning finding it consistent with the Land Use Plan, reasonable and in the public interest. Commissioner Fryar seconded and the motion passed 7-0.

- **Rezoning Request: John Kilby CS to R-3**

Josh O'Connor, Zoning Administrator, explained the rezoning request as attached to the minutes of the meeting. He said that the request was recommended for approval by the Planning Board and Planning Staff finding it consistent with the Land Use Plan, reasonable and in the best interest of the citizens.

The Chairman opened the hearing at 5:01 p.m.

John Kilby spoke as petitioner and in favor of his request thanking staff for their help with the process.

The Chairman closed the hearing at 5:03 p.m.

Commissioner Newman asked if there were other lots that could be influenced for commercial zoning as a result of this rezoning. Mr. O'Connor said that this was not a problem as it had R-3 as a buffer zoning surrounding the property and each rezoning was considered on a case by case basis and must be consistent with the land use plan.

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

- **Rezoning Request: Eugene & Phyllis Dodd CS to R-3**

Josh O'Connor, Zoning Administrator, explained the rezoning request as attached to the minutes of the meeting. The request is recommended for approval by the Planning Board and the Planning staff finding it consistent with the Land Use Plan, reasonable and in the best interest of the citizens.

The Chairman opened the hearing at 5:11 p.m.

Jerry Rice asked if there were any consideration of the environmental impact as these zoning changes.

The Chairman closed the hearing at 5:12 p.m.

Mr. O'Connor said that hazard consideration was not within the County's legal rights as part of the private property transactions. He said that the County does have a constraint chart for each particular zoning type.

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

## **NEW BUSINESS**

- **Animal Control Ordinance Amendments**

Commissioner Frost said that the County spends approximately \$1.65 million a year on animal services and outlined the ways that the County had been first in many animal welfare issues. She showed a County produced PSA regarding animal neglect and said it was time to more directly address the neglect of animals. She introduced a neglected and abandoned dog that had been rehabbed and was now an adopted, happy animal. She asked that the community help report neglect and improve this widespread problem.

Mike Frue, Senior Staff Attorney, reviewed the proposed changes to the animal control ordinance pointing out the changes regarding adequate shelter for horses. He said that compliance would have to be viewed on a case by case basis.

Commissioner Fryar felt that the changes left too much discretion in the hands of the animal control officers.

Patrick Erwin spoke representing Chain free Asheville. He was opposed to the changes that were proposed regarding the tethering of animals. The group requested that the ordinance prohibit the unattended tethering of dogs. He presented pictures of dogs on chains that were legally tethered under the current ordinance. He was upset that his group had not been contacted about the changes in the ordinance or the meeting. He asked that the Board table the recommendation and amend the ordinance in the way that would prohibit the unattended tethering of dogs.

Denise Bitz, President of Brotherwolf Animal Rescue, said they rescue and keep over 600 animals and felt they should have been consulted in the drafting of the amendments. They ask that the amendments be tabled.

Evelyn Lotz said there is free fencing available to help people stop tethering animals. She complimented animal control and gave examples of animal neglect in her neighborhood.

Virginia Schmidt asked that the Board ban tethering as the next step in animal health in the community.

Robbie Coleman works with Friends for Ferals and had seen many bad tethering situations with dogs. She wanted animal officers to understand neglect and have ways to verify if animals have had veterinary care and social interaction.

Gary Cox said that as a hunter, he keeps his dogs tethered. He felt the issue to be solved was neglect not tethering.

An unidentified citizen asked that the issue be tabled. He said that none of the clubs he is a member of were notified of these issues.

Shelby Ballard said that he had tethered dogs and there was nothing wrong with tethering. Neglect should be the issue.

Commissioner Frost moved to approve the ordinance as presented. Commissioner Newman seconded the motion.

Commissioner DeBruhl moved to table the ordinance to allow more of the groups to participate. Commissioner Fryar seconded.

Commissioner Newman said that without particular points to consider he was not in favor of postponing the adoption of the ordinance. He thanked everyone for their perspective and love for animals. He said that he wanted to send a clear signal that neglect would not be tolerated and the amendments in the proposed ordinance moved that forward.

Vice Chair Belcher stated concern over the terms "social interaction" and "adequate exercise" being too subjective.

Commissioner DeBruhl asked if a specific size shelter was required or would existing horse shelters be grandfathered. Mike Frue, Senior Staff Attorney said that the Animal Control Officers would have the ability, with the proposed amendment, to allow adequate, existing shelters to meet the requirements.

Commissioner Jones said that she was in favor of moving forward with the ordinance as presented. The motion to table failed as follows:

AYES: Commissioners DeBruhl, Fryar and Belcher

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

Commissioner Newman moved to amend the original ordinance as outlined in the ordinance attached to the minutes. Commissioner Frost seconded the amended changes.

Commissioner Jones thanked everyone for their love of animals. She asked that the animal control officers be asked to work with the public on how the changes were implemented.

Commissioner Newman explained his amendments and the timeliness of his submissions.

Commissioner Fryar moved to amend the proposed amendment by deleting a portion of Section 65 8(a) "*By way of illustration, and not limitation, if an officer deems that the dog has not had sufficient exercise off tether or social interaction such violation will constitute neglect.*" Commissioner Belcher seconded. The motion failed as follows:

AYES: Commissioner Fryar and Belcher

NOES: Jones DeBruhl Frost, Newman, Gantt

The motion to approve ordinance as amended passed:

AYES: Chairman Gantt, Commissioners Newman, Frost, Jones

NOES: Commissioner Belcher, DeBruhl, Fryar

*A second reading would be held at the next meeting.*

- **Presentation of the Comprehensive Annual Financial Report**

Donna Clark, Finance Director presented the report ending June 30, 2013, attached to the minutes of this meeting. The Audit Committee had approved the report as presented. She thanked the Board for their support and her staff for their hard work.

Dan Mullinex with Gould Killian restated the excellence of the report and the strong financial standing of the County.

- **NCFAST State Staffing Levels**

Mandy Stone, Assistant County Manager/HHS Director, gave the presentation that is attached to the minutes of this meeting. She asked for 23 new positions to adequately implement the NC FAST program. NCFAST should enhance efficiency; however, it has doubled the time it takes to do the work. She said that thanks to Phillip Hardin with County Economic Services they were able to request 23 positions instead of the 68 that were recommended.

Commissioner Jones asked if NCFAST would ever improve and perform as expected. Ms. Stone said that the goal of the system to provide immediate, on time information the right move; however, the implementation of such a large undertaking was very difficult. Ms. Stone said that an electronic application system was required by the Affordable Care Act and is intended to improve program integrity through real time on line verification of income and assets.

Vice Chair Belcher moved to approve the budget amendment and the positions as requested. Commissioner DeBruhl seconded and the motion passed 7-0.

- **Resolution Accepting Offer to Purchase County Property on Chestnut Street**

The Clerk to the Board said that the property acquired by the County as part of the dissolution of Blue Ridge Mental Health located at 225E Chestnut Street had been offered for sale at \$887,600 and the high bidder was Altamonte Properties LLC. This resolution would allow the sale of that property.

The County Manager said that the County would continue to require that this property be used for mental health purpose.

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

## **BOARD APPOINTMENTS**

Commissioner Jones moved to appoint **Donald Haynes** to the **Woodfin Water District Board**. The motion passed 7-0.

Commissioners Fryar, DeBruhl, Belcher and Newman voted to appoint Matthew Burrill to the Greater Asheville Regional Airport Authority. Commissioners Jones, Frost and Gantt moved to appoint Janis Brumit to the **Greater Asheville Regional Airport Authority**. **Matthew Burrill** was appointed to fill a three year term.

Commissioners Fryar, DeBruhl, Jones, Gantt, Frost, and Newman moved to appoint **Mark DeVerges** to the County Board of Adjustment. Commissioner Belcher moved to appoint Jeff Foster. Mr. DeVerges was appointed to the **Board of Adjustment** for a three year term.

The Chairman stated the January 22, 2008 Restated and Amended Airport Authority Agreement ("Agreement") between the County and City of Asheville says that the Asheville Regional Airport Authority ("ARAA") shall consist of seven (7) members, including three (3) citizens and residents in good standing of Buncombe County, appointed by the Buncombe County Board of Commissioners. The Agreement also states that all members of the ARAA shall serve four (4) year terms.

Chairman Gantt was previously appointed by the Commissioners to serve as a member of the ARAA, and his four-year term expired June 30, 2012. Session Law 2012-121 states that the ARAA will continue to exist during the transitional period from the Asheville Regional Airport's joint agency status to an independent authority status. Therefore, despite the creation of the Greater Asheville Regional Airport Authority ("GARAA"), if a vacancy occurs on the ARAA, someone would need to be appointed as a replacement member.

Commissioner Jones moved to appoint **Ray Bailey** as a member of the **Asheville Regional Airport Authority** for a four year term. Commissioner Frost and the motion passed 7-0.

## **ANNOUNCEMENTS**

The Chairman made the following announcements:

- *The next regular meeting of the Board will begin at 8:30 a.m. on January 20 in the First Floor Conference Room at 200 College Street in downtown Asheville.*
- *County offices will be closed for the Martin Luther King Holiday on January 19.*
- *Commission meetings can be seen on:*
  - *BCTV Charter Cable Channel 192*
  - *AT&T U-Verse Channel 99*
  - *Live on BCTV Channel 192 and on buncombecounty.org during the meetings or*
  - *Online anytime at buncombecounty.org*

Commissioner Frost moved to go into closed session to consider an economic development matter under GS 143-318.11(a)4. and (3) two legal issues with no action taken. Vice Chair Belcher seconded and the motion and it passed 7-0.

## **CLOSED SESSION**

The Board heard from staff attorney Curt Euler regarding the Wilcoxson vs. Buncombe County case. No action was taken.

The Board considered a possible economic development incentive for a new company investing \$12 million and bringing 106 jobs to the County. The Board gave consensus to pursue the company with an incentive offer. The Board discussed a potential laws involving reimbursement for the CTS waterline. No action was taken.

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

Commissioner Newman moved to adjourn the meeting. Vice Chair Belcher seconded and the motion passed

7-0.

The meeting was adjourned at 9:45 p.m.

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KATHY HUGHES, CLERK TO THE  
BOARD OF COMMISSIONERS

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DAVID GANTT, CHAIRMAN  
BOARD OF COMMISSIONERS