

**MINUTES OF BUNCOMBE COUNTY BOARD OF COMMISSIONERS'
REGULAR MEETING OF APRIL 5, 2016 AT 4:30 A.M.**

BE IT REMEMBERED: That the Board of Commissioners met in regular session on April 5, 2016, in the Commission 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
Brownie Newman, Vice Chair
Joe Belcher, Commissioner
Miranda DeBruhl, Commissioner
Ellen Frost, Commissioner
Mike Fryar, Commissioner
Holly Jones, Commissioner

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

PLEDGE OF ALLEGIANCE

INVOCATION

PUBLIC COMMENT

Jerry Rice asked about the accuracy of meeting minutes and why the property revaluation was being discussed again today.

Don Yelton commented on the revaluations from 2002 to 2010 and timing of the revaluations. He also commented on the Women's Commission stating he might wanted to apply.

Matilda Baker read a poem about laws and discrimination.

Linda Humphries asked the Board to vote no to any ordinance which is in direct conflict with state law. She was upset about the County workplace discrimination policy.

Lisa Baldwin spoke against the resolution regarding the County's discrimination policy that the Board would be considering at this meeting. She was in support of HB2 and felt that the resolution the County was considering was in defiance of the State law. She felt that the resolution should be taken off the agenda. She was also opposed to the reappraisal in the coming year.

Holly Roach spoke for equal protection under the law and wanted the county to continue to be a welcoming space for everyone. She felt that the HB2 was a hateful law and she wanted unisex bathrooms everywhere.

DISCUSSION/ADJUSTMENT/APPROVAL TO FOLLOW AGENDA

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

- **Approval of the Minutes of the March 1, 2016 Regular Meeting**
- **Resolution Approving Plat Review Officers**
- **Resolution Approving Pyrotechnic Experts for Firework Displays**
- **Budget Amendment:**
 - **Fund 10 – Community Health promotion**
 - **Children & Family Services**
- **Grant Projects Ordinance**
- **Capital Project Ordinance**
- **Release Report**

GOOD NEWS

- **Raising Awareness of Manufacturing Possibilities**

Nathan Ramsey, Mountain Area Workforce Development Director, gave a power point that outlined this initiative and is attached to the minutes. He said that growth of manufacturing in our region was healthy and that there were many employers seeking employees to fill jobs and many of these jobs could be filled with students straight out of high school. He thanked the Board for helping get this initiative off the ground and for their continued support.

- **Presentation of Enka High School State 3-A Wrestling Champions**

Commissioner Belcher and Commissioner DeBruhl presented the students with certificates for winning the State 3-A Championship as the first high school in the County to win a state championship in wrestling. Team members were: Bryson Allen, Christopher Bang, JR Banks, Matthew Barrett, Walker Brown, Zach Burnette, Michael Cadenhead, Michael Cantrell, Mason Christenson, Chance Cryderman, Phil Daub, Phillip Dexter, Blaine Greene, Jonathan Hall, Chance Hannah, Zack Howard, Cody Howell, Tyler Hyatt, Spencer Jackson, Noah Johnson, Eli Kayne, Jon Kent, Hunter Kinser, Kamron McClellan, Tanner Revis, Daniel Ross, Melvin Rubio, Caleb Surrent, Peyton Whitt, Trey Wilson, Chandler Winebarger. Coach Mark Harris thanked the Board for the acknowledgement and praising his team for how hard they work year round and for their dedication to the sport.

- **Habitat for Humanity House**

Andy Barnett, Executive Director for Habitat for Humanity, introduced Tara Jabs who, along with her two children, will be the new home owner of the City/County house. This house will be the last one in the Hudson Hills Development in West Asheville and was dedicated to the efforts and support of the local governments. The Commissioners had signed one of the 2x4s that would become a permanent part of the roof in this house.

- **Proclamation of Child Abuse Prevention Month**

Commissioner Jones read the proclamation saying that this is the 15th year that she had been a part of proclaiming Child Abuse Prevention Month and she thanked all those that work on prevention. Commissioner Jones moved to approve the proclamation. Commissioner Frost seconded and the motion passed 7-0.

Tammy Shook, Social Work Director, thanked the Board for the recognition and Geoff Sidoli, Executive Director of the Child Advocacy Center, thanked them for the recognition of the problem of child abuse in the County. He said that they are working against child abuse and putting together the different community partners to make great improvements.

- **Proclamation of Parkinson's Disease Awareness Month**

Commissioner Frost read the proclamation and moved for its approval. The motion passed 7-0. Angela Coon, with the Parkinson's Support Group of Asheville, said that there were very few medical advances in this area and there was no cure. She thanked the Board for the recognition.

PUBLIC HEARINGS

- **Zoning Requests – John Cort – Un-zoned to R-2**

Debbie Truempy, Zoning Administrator, explained the zoning request as outlined in the information attached to the minutes. This lot is currently un-zoned and undeveloped. The staff and Planning Board approved the request to zone the parcel R-2 as requested, finding it consistent with the Land Use Plan and in the public interest.

The Chairman opened the public hearing at 5:50 p.m.

Bob Gale spoke in support of this zoning.

The Chairman closed the public hearing at 5:52 p.m.

Commissioner Frost moved to follow the recommendation of the staff and Planning Board finding it consistent with the Land Use Plan, reasonable and in the public interest. Vice Chair Newman seconded and the motion passed 7-0.

- **Subdivision Ordinance Amendments**

Debbie Truempy, Zoning Administrator, said that the Subdivision Ordinance changes would bring this ordinance in line with the state law changes.

The Chairman opened the public hearing open at 5:55 p.m.

Don Yelton asked if the changes in the Subdivision Ordinance would bring the ordinance into compliance with State laws.

The Chairman closed the hearing at 5:56 p.m.

Ms. Truempy said that these changes would bring the Ordinance in line with State changes that were approved in October 2015.

Commissioner Belcher moved to approve the changes finding them consistent with the Land Use Plan and in the public interest. Vice Chair Newman seconded the motion and it passed 7-0.

- **Zoning Text Amendments**

Debbie Truempy, Zoning Administrator, said that these changes were outlined in the power point attached to the minutes. She explained many of the changes and the reasons they were included in the recommendations. She said that the Planning Board held a public hearing on the administrative changes and a separate hearing on the other

changes. The Planning staff and Planning Board recommended adoption, finding these changes consistent with the Land Use Plan, reasonable and in the public interest.

The Chairman opened the public hearing at 6:08 p.m.

Keith Duke from Reems Creek complained that 30 units per acre were too dense. He was confused by how zoning determines how many homes are allowed per acre. He felt the developers did not care about the residents and recommended that the County review these changes.

Joe Masellous from Reems Creek said that he was in disagreement with building sidewalks and using farm land. He felt like the developments across the County were not being reviewed together and what they were doing to the community should be reviewed. He asked that this be tabled and better reviewed. He felt that the County's Comprehensive Land Use Plan was obsolete.

Al Guppert did not like the proposed changes and did not want density increased on steep slopes. He wanted the view sheds to be protected and asked that these go back to the Planning Board.

Dave Nutter, a retired planner liked the recommendations and felt the changes were all wonderful improvements to the zoning ordinances.

Nancy Nelson from Reems Creek Valley said that there would be 144 house on 57 acres with more cars coming to roads not ready for the increased traffic. She reviewed the changes and asked that they be approved. She was in favor of these changes and hoped that more changes would come from citizens to the planning board and staff more quickly. She wanted the County to work more closely with the Department of Transportation to make sure that these roads are ready for increased development.

Ann Calistokley thanked the Planning Board for the work; however, she thinks that these changes would be premature and more public input and development of a clearer sense of community developments would be a good idea. She felt that the changes had not been properly thought out over the long term.

Joan Walker, Planning Board member, spoke in favor of the community oriented planning and development which she felt would help reign in the growth. She was in favor of the changes for the community and families.

Jerry Rice wanted the Planning Board meetings to be held at a different time. He talked about the costs of zoning. He was opposed to the reappraisal.

Robin Merrill spoke in favor of affordable housing and the community oriented planning development segment of the changes. She felt that density was appropriately situated in these changes.

Parker Sloan, Planning Board member spoke in favor of the zoning changes. He felt these changes would preserve the community. He wanted the incentives for affordable housing to be monitored appropriately. He felt the short term rental business could hurt the housing stock in the region.

Don Yelton spoke about the steep slopes and the placement of houses in these areas. He wanted review of individual projects instead of passing an ordinance that speaks to all of them the same.

Greg Borom spoke in favor of the community oriented development ordinance. He sent the Board a petition that encouraged the Board to adopt these changes

Alan Salman asked about the criteria for workforce housing.

The Chairman closed the hearing at 6:45 p.m.

Ms. Truempy gave the criteria for affordable and workforce housing and the location of the transportation corridors where growth would be directed. She said that the County's GIS site had the indicators available.

Commissioner Frost thanked the staff and Planning Board for their work on all these changes that would hopefully allow more folks to live here.

Commissioner DeBruhl asked for more public comment at the next meeting and to wait on adoption.

Commissioner Fryar and Belcher asked for more time to review the changes.

Vice Chair Newman said that the policies will need to continue to be reviewed to make sure they are the right changes going forward. He felt that more time for review now would not help.

Chairman Gantt said that affordable housing was important and it was time to take action for our community; clarifying that these changes would not decrease the protection of the steep slope or ridgetops.

Commissioner Jones moved to adopt a Resolution of Statement of Consistency. Commissioner Frost seconded the motion.

AYES: Chairman Gantt, Commissioners Jones, Frost, Vice Chair Newman

NOES: Commissioners Belcher, Fryar, DeBruhl

Commissioner Jones moved to approve the Ordinance approving the changes as outlined. Commissioner Frost seconded.

AYES: Chairman Gantt, Commissioners Jones, Frost, Vice Chair Newman

NOES: Commissioners Belcher, Fryar, DeBruhl

NEW BUSINESS

- **Resolution Advancing the Property Tax Reappraisal Schedule**

Wanda Greene, County Manager, recommended the advancement of the reappraisal schedule in view of the budgets in coming years and her efforts to try and bring the County a budget requiring no tax increase.

Gary Roberts, Tax Director, reviewed his presentation from the last meeting and explained why he was requesting an advance in the reappraisal. He presented maps showing the sales and inequity of the tax assessments. He said that the tax assessment could be off and should be in the 95 percent sales ratio and higher. He said he had spoken with the Department of Revenue and they had reviewed the qualified sales systematically to get an accurate sense of correctness. He said that the longer the county waits, the worse the situation gets for the taxpayers. He encouraged the Board to pass the resolution advancing the reappraisal.

Commissioner Fryar was opposed to the reappraisal being advanced.

Commissioner Frost said that advancing the reappraisal would bring equity and moved to approve the resolution as presented. Chairman Gantt seconded. The motion passed 4-3:

AYES: Chairman Gantt, Vice Chair Newman, Commissioners Frost, Jones

NOES: Commissioners Belcher, DeBruhl and Fryar

- **Resolution Regarding NC Session Law 2016-HB2**

Commissioner Frost read a portion of the resolution and moved for its approval. She said that in 2013 the County established a workforce policy to encourage diversity and passed a resolution changing our policy to be inclusive. She said that we have an incredible workforce and this resolution will reaffirm that our employees are protected and will not be discriminated against.

Commissioner Jones seconded the resolution.

Mike Frue Senior Staff Attorney said that this resolution is simply to reaffirm what the County already has on the books. This does not address private employers but does allow the County to continue to protect employees.

Cathy Rhodamer spoke in favor of House Bill 2 because women had been attacked in rest rooms. She was opposed to the Charlotte laws.

Dana spoke opposed to HB2. She wondered who was protected by the County's ordinance.

Renee Blackchurch was a transgender and said she was not a threat but under HB2 could be arrested for using the women's room although she is living as a women.

Evonne Riley is a transgender and asked the Board to affirm what it has already adopted.

Mariah Gortney is a transgender and felt that HB2 supported discrimination.

Chris spoke against the HB2

Flint is transgender and feels threatened by HB2. He said that he did not choose to be transgender.

Zach is a transgender and chose Asheville because he felt accepted here. He chooses not to use public restrooms.

Allison Scott is a transgender and feels discrimination is part of life. She thanked the Board for their endorsement of the resolution.

Daniel Best is a transgender man and a Professor at Western Carolina University. He was opposed to HB2 which makes it illegal for him to use the men's room although he appears as a man.

Sara Garbee thanked the Board for the reaffirmation and had experienced discrimination. She said that this says a lot to the community and for the Board to say this is not okay goes a long way.

Laura Somo was opposed to HB2

Linda Humphries asked who would enforce the HB2 and she wanted it enforced.

Lisa Baldwin spoke in favor of HB2 wanting protection and modesty. She said that this mirrors federal law. She felt the resolution being considered was in defiance to the federal law and would be meaningless and invalid.

Emmit Sluder from Bible Baptist Church spoke against the resolution. He felt it was in response to Charlotte and a local ordinance. He said that it violates common sense.

Randy Keener spoke in favor of HB2 to protect his daughters. He is a conservative and felt the resolution was a slap in the face of law and justice.

Natolda Bless and is transgender and felt this was a serious issue. He said that finding his gender had been a miracle.

Reuban said there was a lot of pain and fear on both sides of the issue that was all legitimate and both sides want protection and nothing in this resolution would allow abuse. He felt that supporting rights was a positive thing to do.

Don Yelton said he is discriminated against regularly and that the whole thing was political and a smoke screen to take advantage of a group of special people.

Jerry Rice talked about Sodom and Gomorrah and what happened with Lot. He said one day God won't have any more mercy.

Erin Carber said that 97 percent of businesses have non-discrimination policies in North Carolina. He thanked the Board for taking this step.

Tim Peck said that HB2 prompted a response and did allow the County to set personnel policy. This is established personnel policy and is not prohibited by the bill.

Commissioner Jones said there was a lot of fear in the room and that she was inspired by those that spoke their personnel stories. There was some confusion as to whether or not the County's rules were standing and this is to reaffirm the rules.

Commissioner Fryar spoke against the resolution saying it was a ploy to speak against HB2.

Commissioner DeBruhl said this was telling other elected officials how to do their job and was just political.

Commissioner Frost said it was not political and just a reaffirmation.

Commissioner Jones said that HB2, not this resolution, did come forward in a political context. After additional discussion, the motion passed as follows:

AYES: Chairman Gantt, Commissioners Frost, Jones, Vice Chair Newman

NOES: Commissioners Belcher, DeBruhl, Fryar

- **Resolution Establishing Joint City, County Utility Energy Innovation Task Force**

Jason Wall, District Manager for Duke Energy presented the joint City/County/Duke Energy resolution that established the joint task force. He said that Buncombe County was growing faster than other parts of the state and that customers expect reliable energy. The Duke Energy system was being modernizing by retiring the two coal fired units and replacing the two units with by two natural gas fired power plants. Duke had provided a new plan based on the communities request to help with the future plans. There was an expectation from the Utilities Commission that the community will be involved. Buncombe is 90 percent of the customer base in the 7 western counties.

Mr. Walls said that Duke Energy did not assemble the task force but looked at interests that would be helpful. They felt strong support of leaders was important.

Vice Chair Newman reviewed the participants in the energy task force including the bigger businesses and industries and passions for energy efficiency. He said that he would like to represent the County on the task force and read an email that he sent to the Board regarding his service on his task force (attached to the minutes of this meeting).

Commissioner Fryar wanted to have input into who would serve on this task force.

Discussion was held regarding the formation of the task force.

Commissioner DeBruhl said that this was a bad execution of a good idea. She wanted the public involved in the creation of the task force.

Commissioner Frost moved to approve the resolution as presented. Commissioner Jones seconded.

Commissioner DeBruhl moved to amend the motion to amend the resolution striking the last three "whereas" from the resolution and the appointment of the members. Commissioner Belcher seconded the amendment.

(The Board allowed public comment on this topic)

Commissioner Belcher said his concern is that the goals listed in the resolution would hurt the natural gas option.

Jason Walls pointed out that paragraph's 5 and 6 were taken from the Utility Commission's requirements as to what was expected from the task force.

Don Yelton said he was concerned that the Sierra Club had an agenda and they were on the list. He said there were no citizens on the committee. He wanted to be on the committee.

Jerry Rice was opposed to the process and felt that this was a conflict of interest for Vice Chair Newman. He wanted it run separate from politics. He wanted to be on the committee.

Parker Sloan asked about tax incentives for property owners.

Maria Gortney asked if the conflict of interest statement was legally binding.

Lisa Baldwin said she had a master's degree in economics and wanted to apply for this task force but did not get a chance.

Andrew Sluder was a pastor who said that the lack of transparency and hidden agendas lead to a distrust of government. He did not want his tax money to be paid to commissioners who were not trustworthy.

Commissioner DeBruhl amended her motion to remove certain paragraphs and instead to insert "input and advice from experts" and to open the task force up to public applications and not appoint the people that were submitted. Commissioner Belcher seconded.

Vice Chair Newman said that there was no conspiracy in the process but compared it to the successful work done to improve air quality over 10 years ago.

Chairman Gantt said that there was a degree of trust that must developed and that the City of Asheville and Duke Energy had approved the people listed in the minutes.

The amendment to the resolution failed as follows:

AYES: Commissioners DeBruhl, Fryar, Belcher

NOES: Chairman Gantt, Vice Chair Newman, Commissioners Frost and Jones

The original motion by Commissioner Frost to approve the resolution, seconded by Commissioner Jones passed as follows:

AYES: Chairman Gantt, Vice Chair Newman, Commissioners Jones and Frost

NOES: Commissioners DeBruhl, Fryar, Belcher

Commissioner Jones moved to appoint the members presented to be a part of the task force. Commissioner Frost seconded. Following additional discussion about who should be represented on the task force and the process, Commissioner Jones withdrew her motion.

Vice Chair Newman moved to approve all the members except the County's appointee. Commissioner Frost seconded the motion.

The motion passed 4-3 as follows:

AYES: Chairman Gantt, Vice Chair Newman, Commissioners Frost and Jones

NOES: Commissioners Belcher, DeBruhl, Fryar

Commissioner Newman said that if the application process was opened up, it would take a very long time to have a joint task force appointed. Mr. Walls said that Duke Energy supported the initial list and wanted a collaborative effort pointing out that he was the one who reached out initially for help.

Commissioner DeBruhl said she wanted to interview the appointees.

Commissioner Jones suggested that Duke host a meet and greet for the committee members.

Commissioner Frost moved to appoint Brownie Newman to fill the County's seat. Commissioner Jones seconded to motion.

Vice Chair Newman read a statement that he sent to the Board earlier in the day (attached to the minutes). The Chairman asked that he be available to the public.

The motion passed as follows:

AYES: Chairman Gantt, Commissioners Jones, Frost and Vice Chair Newman

NOES: Commissioners Belcher, Fryar, DeBruhl

- **Resolution of Intent to Solicit Bids for the Sale of Buncombe County Property**

The County Manager asked that she be allowed to declare the County's intent to sell the Ferry Road property in amount of not less than \$6.8 million.

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

The motion passed 7-0.

- **Approval of the Closed Session Notes from the March 17, 2015 Meeting**

Mike Frue, Senior Staff Attorney, said that the Board approved the minutes from the emergency closed session on March 17, 2015 on April 7, 2015. These can be amended to add the full set of minutes with more detail now that the reason for the closed session is complete. He gave a summary of what closed session minutes are to include. The County Attorney said that this is to record actions taken and that they were taken per procedure. He said that coming back and approving now is really not necessary.

Commissioner DeBruhl asked that the minutes be more reflective of what happened and asked to add to the minutes some statements that more clearly reflected the discussions held in closed session including some statements made by Vice Chair Newman. The clerk stated that the minutes belonged to the Board and the Board members could add to the record, but if statements were added to the minutes that were not in her record, she would not be able to sign off or attest to those minutes.

Commissioner Frost said that she was not comfortable with changing anything that was not included in the minutes.

Commissioner Belcher asked if a specific comment he made regarding land speculation was in the notes. The Clerk said it was possible he made the comment but it was not part of her notes.

Commissioner DeBruhl said that she answered to the taxpayers and wanted to amend the minutes to add statements that she knew she heard and wanted in the minutes so that they were representative of the opposition. Following lengthy discussion, Commissioner DeBruhl withdrew her motion and moved to have a transcript of the discussion of this agenda topic be inserted as the official record of the March 17 closed session. Commissioner Belcher seconded.

The motion failed 4-3:

AYES: Commissioners DeBruhl, Fryar, Belcher

NOES: Commissioners Jones, Frost, Vice Chair Newman, Chairman Gantt

Commissioner Frost moved to approve the closed session minutes for March 17 as presented. Commissioner Jones seconded and the motion passed:

AYES: Commissioners Jones, Frost, Vice Chair Newman, Chairman Gantt

NOES: Commissioners DeBruhl, Fryar and Belcher

BOARD APPOINTMENTS

Commissioner Belcher moved to appoint **John Bernhardt, Robert Tomasulo, Spike Gram, Marsha Safian and Peggy Franc** to the **Adult Care Home Community Advisory Committee**. Chairman Gantt seconded and the motion passed 7-0.

Commissioner Frost moved to appoint **David Rittenberg, Parker Sloan and Joan Walker** to the **Planning Board**. Vice Chair Newman seconded and the motion passed 7-0.

Commissioner Frost moved to send the applications for the **Women's Commission** to the Commission and have them recommend the top 12 out of the 27 applications received. Vice Chair Newman seconded and the motion passed 7-0.

ANNOUNCEMENTS

The Chairman made the following announcements:

- **April 19** – *Commissioners Regular Meeting beginning at 4:30 p.m. in Room 326 at 200 College Street*

Commissioner Frost moved to adjourn the meeting. Commissioner Fryar seconded and the meeting was adjourned at 11:30 p.m.

KATHY HUGHES, CLERK TO THE
BOARD OF COMMISSIONERS

DAVID GANTT, CHAIRMAN
BOARD OF COMMISSIONERS