

**MINUTES OF BUNCOMBE COUNTY BOARD OF COMMISSIONERS'
REGULAR MEETING OF AUGUST 7, 2012 AT 4:30 P.M.**

BE IT REMEMBERED: That the Board of Commissioners met in regular session on August 7, 2012, in the Commissioner Chambers, 30 Valley Street 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
K. Ray Bailey, Commissioner
Bill Stanley, Vice Chairman,
Carol Peterson, Commissioner
Holly Jones, Commissioner

Staff present were: Wanda Greene, County Manager; Mandy Stone, Assistant County Manager; Jon Creighton, Assistant County Manager; Curt Euler, Associate County Attorney; Donna Clark, Finance Director; Kathy Hughes, Clerk to the Board.

PLEDGE OF ALLEGIANCE

INVOCATION

Vice Chairman Stanley gave the invocation.

DISCUSSION/ADJUSTMENT/APPROVAL TO FOLLOW AGENDA

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.

Commissioner Peterson moved to approve the consent agenda as presented.

- **Approval of Minutes of June 19, 2012 Regular Meeting**
- **Resolution Approving Donation of Surplus Radio Equipment to Polk County Request**
- **Resolution Approving Surplus Property Report**
- **Resolution Amending Resolution 10-08-07 Appointing Plat Review Officers to Review Plats**
- **Release Report – June**
- **Release Report - July**
- **Resolution Authorizing Execution of an Easement with the Metropolitan Sewerage District Easement Agreement**
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- **Resolution Approving Updated Fire Insurance District Maps for Leicester Fire District**
- **Budget Amendments:**
 - **Fund 66- Bond proceeds, Solid Waste Revenues \$1,985,000; Debt Service \$311,032; Interfund Transfers \$2,200,000.**
 - **Fund 10 – Debt Service, EMP for PreTrial Services/Detention Facility \$20,000; Adult Drug Treatment Court \$10,000**
- **Special Projects Ordinance**

- **Grant Projects Ordinance**
- **Capital Projects Ordinance**
- **Solid Waste Capital Project Ordinance**
- **Resolution Awarding Service Firearm to Retiring Deputies of the Buncombe county Sheriff's Office: Anne Levy, Don Brulport; John Gilbert; Eddie Davis**

Commissioner Bailey seconded and the motion passed 5-0.

PUBLIC HEARING

- **Economic Incentive for New Belgium Brewing**

Jon Creighton, Assistant County Manager, explained the economic development incentive proposed for New Belgium, a brewery that started in 1991 in Fort Collins Colorado and now serves 29 states. The company was expanding to the east coast and had announced their newest location as Buncombe County. He thanked representatives of NC Commerce and Asheville Chamber for helping New Belgium choose Buncombe as their home, where they will invest \$175 million and create 154 jobs. The average wage would be \$50,000. The plant will be located in West Asheville where they plan a huge improvement around the facility, along the riverfront. The plant should be operational in January of 2015. The County's incentive would be \$8,450,000 paid out over 13 years.

The Chairman opened the public hearing at 4:45 p.m.

Jerry Rice spoke against the brewery and the incentive package based on the increase in traffic in the area and site contamination.

Joe Feriekas, Vice Chairman of the Riverfront Commission, spoke in support of the project which he felt would be a great economic catalyst for the whole area.

Lisa Landis said that the brewery was a bad idea and would increase alcoholism.

Don Yelton spoke against the brewery and proposed that all topless dances be held near the river.

The Chairman closed the hearing at 4:52 p.m.

Mr. Creighton said that an environmental assessment had been done on the site and the history and condition of the site was partially why they picked the site.

Commissioner Bailey moved to adopt the resolution as presented. Commissioner Peterson seconded and the motion passed 5-0.

- **Rezoning Request: Phillip Warren – PS from R-1**

Debbie Truempy, County Planner, said that Mr. Warren had requested a rezoning of .3 acres from R-1 to Public Service. She said that the staff felt that this rezoning would not be appropriate for the area which is currently surrounded by single family homes. She said that the staff recommended denial of the request.

The County Planning Board held a public hearing on the rezoning and found that it would be consistent with the land use plan and that it would be reasonable to allow a variety of uses in the area. They voted to approve the request.

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

Alberta Henninger, resident of the area, did not want the property rezoned.

John Henninger felt that the rehabilitation homes were not appropriate for the residential street.

Ron Sneed, attorney for residents opposed to the request, said that they do not want a drug rehab facility on this property. He felt the public service district was intended for governmental properties and does not fit the surrounding properties in this area. He said that

this was not consistent with the comprehensive plan.

Phillip Warren, who filed the petition, said that the drug rehab center proposed for the property would take individuals who were having trouble with alcohol and drugs and give them a place to transition back into society. He said that the property was a great fit for a rehab facility.

Emily Church, a resident of the rehab center, said that the program was working for her and she urged the Board to approve the rezoning.

John Crognalli was opposed to the rezoning.

Joseph Martinez had a problem with the requested zoning and the lack of licensure for this facility.

Lisa Landis said that alcoholism is a disease and was in favor of the rezoning.

Michael Liptack said that the rezoning would be damaging to the whole area.

Audrey Bryant was opposed to the rezoning.

Tony Thorpe, resident of the program, was supportive of the program continuing.

Martin Cruhardski, a resident of the program, was supportive of the program continuing.

Michael Vickney urged the Board to approve the rezoning.

Jennifer Holliwell, founding director of the program, asked that the Board approve the rezoning as requested.

The Chairman closed the public hearing at 5:30 p.m.

Commissioner Jones moved to find that the zoning was not consistent with the land use plan. Commissioner Bailey seconded and the motion passed as follows:

AYES: Chairman Gantt, Commissioners Bailey, Jones and Peterson

NOES: Vice Chairman Stanley.

Commissioner Jones moved to deny the rezoning designation as presented.

Commissioner Bailey seconded and the motion passed as follows:

AYES: Chairman Gantt, Commissioners Bailey, Jones and Peterson

NOES: Vice Chairman Stanley.

NEW BUSINESS

- **Resolution Dedicating the Health & Human Service Building at 40 Coxe Avenue in Honor and Memory of Margaret Coman**

Vice Chairman Stanley moved to approve the resolution, Commissioner Peterson seconded the motion and it passed 5-0.

The Chairman thanked Jim Coman, son of Margaret Coman for his work as a 31 year employee of the County. Commissioner Peterson said it would be an honor to unveil the plaque at the ceremony on August 21 at 2 p.m.

- **Annual Tax Settlement Report, Insolvents for 2011 and Order to Collect**

Gary Roberts, Tax Director, gave his report which is attached to the minutes of the meeting. He asked the Board to approve the settlement and charge him with the tax bills.

Commissioner Jones moved to approve the report and charge the Tax Director with collection of the bills. Commissioner Peterson seconded and the motion passed 5-0.

Mr. Roberts presented the insolvents or uncollectable bills including vehicle bills, bills 10 years and older and personal property bills that are older than 5 years. He asked that the Board allow him to write off these accounts as uncollectable.

Commissioner Bailey moved to accept the insolvents list for 2011 and allow these to be written off as uncollectable. Commissioner Jones seconded and the motion passed 5-0.

- **Resolution Advancing the Scheduled Octennial Reappraisal**

Gary Roberts, Tax Director, reviewed the definition of reappraisal and why it should be done now stating that every county must complete the revaluation every 8 years. Buncombe normally does a revaluation every 4 years but has not done one since 2006.

Commissioner Peterson moved to approve the resolution advancing the reappraisal as presented and setting the date as January 1, 2013. Vice Chairman Stanley seconded the motion.

Mike Fryar said that large land tracts had lost value and asked if the County tax rate would increase if the values were lower.

Jerry Rice wanted tax relief and commented that this was a political decision.

Don Yelton said that some properties might be undervalued and he wanted a revaluation done every time the market changed.

Commissioner Jones said that the market needs one more year and she would be opposed to the revaluation at this time.

The motion passed 4-1 as follows:

AYES: Chairman Gantt, Vice Chairman Stanley and Commissioners Bailey and Peterson
NOES: Commissioner Jones

- **Designation of Voting Delegate to the NCACC Annual Conference**

Commissioner Peterson moved to nominate Vice Chairman Stanley as the voting delegate to the NCACC Annual Conference. Chairman Gantt seconded and the motion passed 4-0.

(Commissioner Jones was out of the room for this vote)

- **Debt Policy & General Fund Balance Policy**

Donna Clark, Finance Director, said that the written policy for fund balance and debt management are the same as currently in place but simply put in formal written format.

Commissioner Peterson moved to adopt the debt policy. Vice Chairman Stanley seconded and the motion passed 5-0.

Commissioner Peterson moved to adopt the general fund policy as presented. Vice Chairman Stanley seconded and the motion passed 5-0.

- **Ordinance Amending the County Personnel Ordinance**

The County Manager presented the revamped personnel ordinance. She said that the document complies with current law and has dealt with a number of issues including the longevity schedule. Other areas involving vacation and health insurance are found to be in line and were kept in place. She said that inclusion of sexual orientation in the employment statement was debated but came down to a legal issue. She asked to have the County Attorney advise the Board in closed session. She said that employees were the County's most valuable resource and she would request that the ordinance be adopted as soon as possible to relieve the anxiety of the workforce.

Gibbie Harris, Health Director, reviewed the public health changes included in the ordinance.

Lisa Eby, HSST, reviewed the changes stating that fundamentally the ordinance had not changed but was simplified and clarified.

Commissioner Peterson moved to adopt the ordinance as presented. Vice Chairman Stanley seconded the motion.

Commissioner Jones asked for clarification regarding merit pay versus merit principle. She requested that public comment be held on the ordinance.

Vice Chairman Stanley called the question.

The Associate County Attorney said that, as a result of Commissioner Jones request to have public comment on the ordinance, the public comment would have to be taken before the motion to adopt the ordinance could be considered.

Commissioner Jones moved to amend several sections of the proposed ordinance including Article 1 Section 5 to include gender identity and sexual orientation as a protected class.

Mike Fryer complained about the personnel ordinance.

Yvonne Cook-Riley said that she was a gender variant and wanted to be in a protected class.

Amy Huntsman works for the County and wanted gender equality included in the policy

Karen Oelschlaeger with the league of woman voters requested that gender identity and sexual orientation be included in the ordinance.

Don Yelton thanked Commissioner Jones for requesting public comment be taken on this topic.

Jasimine Beach-Ferrara supported the inclusion of the non-discrimination policy because it reflects the community.

Lindsey Simerly was in favor of the non-discrimination policy being adopted by the Board.

Lisa Landis thanked Commissioner Jones and wanted more time to see the policy.

Erin Tarbaro wanted the equality policy adopted.

Joe Belcher said that anxiety regarding pay is rampant and he said that what was presented was very consistent and is illegal to discriminate. He felt everyone should be treated equal. He supported what was presented but was fair.

Ashley Arrington was in favor of the sexual orientation policy adopted. She wanted these protections placed into the policy.

Don Gouge said he hears about the attack on employee benefits and he asked that the board adopt the policy today.

After some direction from the County Attorney, the motion to call the question failed for lack of 2/3 majority as follows:

AYES: Commissioner Bailey, Peterson and Vice Chairman Stanley

NOES: Chairman Gantt and Commissioner Jones

Commissioner Jones moved to amend the ordinance to include under the protected class sexual orientation and gender identity. Chairman Gantt seconded the motion.

Commissioner Peterson asked for the legal ramifications in closed session.

Vice Chairman Stanley moved to go into closed session pursuant to GS 143-318.11a(3) for attorney client matters and (4) for an economic development incentive. Commissioner Peterson seconded and the motion passed 5-0.

Closed Session

The Board heard from County staff regarding the need for acreage to locate a radio tower in Swannanoa to allow public safety communication coverage. The property in question was in foreclosure. The Board gave consensus for the staff to proceed with acquisition of the property.

Jon Creighton, Assistant County Manager, presented a possible economic development incentive for an existing company's \$2.5 million expansion, adding 30 jobs. A \$55,000 incentive was proposed. The Board gave consensus.

The Board heard from the County Attorney regarding the legal implications of including sexual orientation in the County's Personnel Ordinance. No action was taken.

Commissioner Peterson moved to return to open session. Vice Chairman Stanley seconded and the motion passed 5-0.

The amendment to the County Personnel Ordinance to add sexual orientation/gender identity as a protected class as requested by Commissioner Jones and seconded by Chairman Gantt failed as follows:

AYES: Chairman Gantt, Commissioner Jones

NOES: Commissioners Bailey, Peterson and Stanley

Commissioner Jones said that she had other amendments but had decided not to make them at this time.

Commissioner Peterson moved to adopt the ordinance as presented. Vice Chairman Stanley seconded.

Commissioner Jones said the ordinance was a good document but the protected class is the most important and without that she would vote against the ordinance.

The motion passed 4-1 as follows:

AYES: Chairman Gantt, Vice Chairman Stanley, Commissioners Bailey and Peterson

NOES: Commissioner Jones

BOARD APPOINTMENTS

Chairman Gantt moved to appoint **J. Ray Eilingburg** to the **Historic Resources Commission** for a second term. The motion passed 5-0.

Commissioner Peterson moved to appoint Natira Collington and **Angela Rutledge** to the **Nursing Home Community Advisory Committee** for one year terms. The motion passed 5-0.

Commissioner Peterson moved to appoint **Caitlin Connelly** to the **Adult Care Home Community Advisory Committee** for a one year term. The motion passed 5-0.

ANNOUNCEMENTS

- *The next regular meeting of the Board will be August 21 at 4:30 p.m.*
- *The Board will hold a special ceremony on August 21 at 2 p.m. to unveil the plaque dedicating the renovated 40 Coxe Avenue in honor and memory of Margaret H. Coman*
- *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*

PUBLIC COMMENT

The Chairman reviewed the rules for public comment.

The official business of the County has concluded and we will now hold 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.*

Shirley Dosier had filed a trespassing order against some construction crews and no one would help her with the trespassing charges.

Jerry Rice made comments regarding the local mental health LME and their reports that did not include the lost funding.

Don Yelton said that New Belgium chose the Brownfields site because they get federal funding. He talked about an information request he gave for county employees correspondence.

Lisa Landis talked about her dislike of the county government.

Mike Fryer gave a request for documents from county staff.

Vice Chairman Stanley moved to adjourn the meeting. Commissioner Peterson seconded and the motion passed 5-0.

The meeting was adjourned at 9:15 p.m.

KATHY HUGHES, CLERK TO THE
BOARD OF COMMISSIONERS

DAVID GANTT, CHAIRMAN
BOARD OF COMMISSIONERS