

**MINUTES OF BUNCOMBE COUNTY BOARD OF COMMISSIONERS'
REGULAR MEETING OF APRIL 7, 2015 AT 4:30 A.M.**

BE IT REMEMBERED: That the Board of Commissioners met in regular session on April 7, 2015, 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
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; Tim Flora, Interim Finance Director; 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

Betty Jackson questioned the Plasticard-Locktech International Project (that was on the consent agenda) asking if county citizens would be liable. *The County Manager explained that this was a better way for the company to finance their debt and the County would hold no obligation as the company was completely responsible. A public hearing had previously been held on this topic.*

John Haas, President of Friends of Town Mountain, commended the Sheriff's Department for working to solve the burglaries in his community.

Linda Cook lives in an R-1 zoning district and asked the Board not to add mobile homes to the R-1 and R-2 zoning districts.

April Burgess-Johnson spoke on behalf of Helpmate and thanked the Board for working to make their work successful. She reviewed the programs that they support and requested \$82,000 worth of support to handle their case management services. She said that as the family justice center prepares to open, they are projecting a huge increase in need.

Ann Bolinger spoke about a recent successful zoning change in their neighborhood and what they felt was troubling talk to change what was allowed in R-1 and R-2 districts. She said they trust the land use plan and the zoning plan and want the County to maintain the zoning district as it is. She was opposed to allowing mobile homes in the R-1 and R-2 areas. She said that allowing these mobile homes would increase problems in these areas.

Ann Housing agreed with Ms. Bolinger and was opposed to manufactured homes in the R-1 and R-2 zoning districts. She described the difference in a modular home and manufactured home. She emphasized that this would not be in the best interest for the county and change the character of the R-1 and R-2 neighborhoods.

An owner in the same neighborhood also agreed that adding mobile homes to zoning districts would be detrimental to neighborhoods. She urged the Board to address the affordable housing issue in a different way.

Sara Faulkner urged the Board not to change the R-1 and R-2 districts allowing mobile homes. She restated the difference in the types of mobile homes stating that mobile homes depreciate in value over the long term.

Christina Merrill talked about the huge costs of the proposed shooting range and referenced the range that Cleveland County recently opened and urged the Board to follow their example and cut the costs of the one planned for Buncombe County.

Fred Flacksman was speaking in opposition to the placement of mobile homes in R-1 and R-2 districts.

Elisha Davis was a client of Homeward Bound and received support from Ahope Day Center. She said that their support was wonderful and changed her life. She is now a staff member/case manager for Homeward Bound.

Gayle Hornowski spoke in opposition to the indoor firing range at the training facility. She was concerned with noise, hours of operation, traffic etc.

Derick Toll, Dava Heller, Madiline Rogers, Leslie Sterit, Shirley Blythe, Daniel Smith and Jay Macky spoke in favor of Homeward Bound and the Ahope Day Center.

Connie Colback spoke against the changes in the R-1 and R-2 that would allow mobile homes.

Gary Colback spoke against the changes in the R-1 and R-2 allowing mobile homes.

Don Yelton reviewed the history of the CTS problem. He referred to Mills Gap Road Associates and their association with the County Attorney.

Francine Griffith from Ahope and Homeward Bound spoke about how they had helped her since she came to them in need in November of 2014. She invited the Commissioners to come see what they do.

David Mielie was opposed to mobile homes in the R-1 and R-2 districts.

Jerry Rice said that people that want to live in gated communities should move back to where they came from and mobile homes should be allowed throughout the County.

Julian Taylor was opposed to the addition of mobile homes to the R-1 and R-2 districts. He said that mobile homes are left to rot on the sides of many roads and make eye soars.

The Chairman said that Commissioner Mike Fryar had received an honorary associate degree from Asheville-Buncombe Community Technical College in government management and would be participating in graduation in May.

DISCUSSION/ADJUSTMENT/APPROVAL TO FOLLOW AGENDA

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

- **Approval of the Minutes of the March 3, 2015 Regular Meeting**
- **Approval of the Minutes of the March 17 Emergency Meeting***
- **Resolution Approving the Issuance of \$4,250,000 Maximum Aggregate Principal Amount of Industrial Development Revenue Bonds for Platicard-Locktech International Project of the Buncombe County Industrial Facilities and Pollution Control Financing Authority**
- **Resolution Approving Plat Review Officers**
- **Resolution Approving Pyrotechnic Experts for Firework Displays**
- **Resolution Granting Easement to Duke Energy Progress Inc.**
- **Release Report**
- **Budget Amendment: Fund 10**
- **Special Projects Ordinance**
- **School Capital Commission Fund Project Ordinance**
- **Grant Project Ordinance**
- **Capital Projects Ordinance***
- **Solid Waste Capital Project Ordinance**

Proclamations

- **Child Abuse Prevention Month**

Vice Chair Belcher read the proclamation and moved for its approval. The proclamation passed 7-0. Leslie Hansen, Child/Adult Protection Services; Jennifer Nehlsen, Community Child Protection Team Chair; and Katie Swanson, HHS accepted the proclamation

- **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 Action Network accepted the proclamation and urged continued support for those working to end the disease.

Public Hearing

- **Property Acquisition – Ferry Road**

Wanda Greene, County Manager, gave the history of the property on Ferry Road and proposed purchase by the County. The property is located off Brevard Road and was a part of the interlocal agreement between the City of Asheville, Buncombe and Henderson Counties as part of the old water agreement. As part of an economic development incentive, the County would like to purchase the property from Henderson County; however, Henderson County has a buyer for the property and in order to secure the property for the economic development prospect, it must be bought at this time. The existing interlocal agreement requires that the property be used for economic development and that greenway easements be in the City of Asheville's name. Environmental review has already been completed. *Further details of sale are outlined in the resolutions attached to the minutes.*

The Chairman opened the public hearing at 6:22 p.m.

Don Yelton said this was a good deal—getting the property for half price since half the proceeds reverted to the County.

Jerry Rice said that bringing industrial jobs brings pollution. He was opposed to a school on an industrial park site. He was concerned with the water front and did not want the government in the real estate business.

Mike Bowman owns property on Ferry Road and asked about the proximity of the firing range to his property. He wanted to know what was going behind his house. *The County Manager clarified that there would not be a firing range built on this property.*

Betty Jackson questioned why the company would not come to Buncombe if the land was owned by Henderson County. She was opposed to the purchase of the property and to economic development incentives.

Gayle Hornowski was concerned about the indoor firing range. She lives next door to the training facility. The Chairman closed the public hearing at 6:36 p.m.

Commissioner Frost moved to approve the Resolution Approving the Purchase of Real Property for Economic Development Project; Resolution of Intent to Reimbursement for Expenditures Incurred in Connection with the Purchase of Real Property and a Capital Project Ordinance transferring funds in reference to this project. Commissioner Newman seconded the motion stating that he appreciated the concerns raised about the uncertain outcome; however, he hoped the economic development would happen as the potential for a major project was very real. It would be another great business partner for the community for decades to come with clean jobs. He said that in the event the company does not chose Buncombe; however, the County would still have a \$6 million property for \$3 million with opportunities for recreation and a valuable asset.

Commissioner Fryar spoke against the transaction and the way that it was presented. He said that he was opposed to all of this and the incentives. *(The County Attorney said that there was a discussion in the closed session in order to give direction to the county manager as to move forward and was subject to public session approval and vote. Everyone expressed their view but there was not vote.)*

Commissioner DeBruhl asked if there were any specific notes from this closed session. *The clerk responded that there were detailed notes from the March 17 closed meeting.*

Commissioner Belcher said he would vote no and was opposed to the transaction.

Chairman Gantt said that this was a five way win—the transaction could bring more jobs and another good company to the County; if the company goes somewhere else, the County could keep the property that could be sold; the County gets money toward the public safety facility; the County resolves a decades old dispute between Henderson and the City of Asheville.

The motion passed:

AYES: Chairman Gantt, Commissioners Frost, Jones and Newman

NOES: Commissioners Fryar, DeBruhl, Belcher

- **Rezoning Request: Bruce Jones R-3 to CS- 31 Monticello Road**

Josh O'Connor, Planner, said that the request was to rezone a property on Monticello Road from R-3 to CS. The property was similar to others in the vicinity and the Planning Board found it consistent with the land use plan and with the surrounding properties.

The Chairman opened the public hearing at 6:59 p.m.

No comments were made.

The Chairman closed the hearing at 7 p.m.

Commissioner Fryar moved to approve the request, finding it consistent with the land use plan and in the public interest. Vice Chair Belcher seconded and the motion passed 7-0.

New Business

- **State of the Asheville Regional Airport**

Lew Bleiweis, Director of the Asheville Regional Airport, gave the annual report. He said that 2014 was the best year ever in Airport history. Travel was up 11.5 percent with 11 non-stop destinations. He said that they are in the middle of the biggest expansion since the airport was constructed in 1961. The project will continue through 2017.

- **Legislative Update**

The County Manager gave a legislative update including the impact of certain proposed legislation on the County. She explained the three proposed bills that could impact sales tax revenues for the County. She said that fire departments have lobbied against changes that would impact fire department revenues. She asked that the resolution proposed for consideration not be passed as presented on the agenda.

Commissioner Jones said that Buncombe is a regional hub for health and human services and should not be hurt by sales tax redistribution to small surrounding counties. She proposed that the county officially oppose these changes.

Commissioner Jones moved that the Board strongly oppose any state legislation that negatively impacts the current and projected amount of total sales tax to be collected by the County. Commissioner Frost seconded.

Commissioner DeBruhl asked for this motion in writing. A copy was made and handed to each Commissioner.

Commissioner Belcher felt this should not be considered and was not in favor of sending any resolution to Raleigh and telling them what to do or not do.

Following discussion of whether or not to allow consideration of this motion, the Chairman ruled it out of order and moved to put it on the May 5 agenda.

- **Tourism Tax Penalty Waiver Request – Carolina Bed and Breakfast**

Susan Murray, owner of Carolina Bed and Breakfast, explained that they were asking for a waiver of the late fee on their tourism development tax. For five years they had deposited their tax payment in the tax drop box at 35 Woodfin Street. In November of 2014 it was deposited as usual but not received by the County in time and a late penalty was assessed. The Tourism Development Authority heard their request and approved the penalty waiver.

Commissioner Jones moved to approve the waiver of the tourism tax penalty for Carolina Bed and Breakfast as requested. Commissioner Frost seconded and the motion passed 7-0.

- **Resolution Establishing a Policy for the Recording of Closed Sessions**

Commissioner DeBruhl read the resolution stating that she supported the resolution as a move toward greater transparency. Commissioners Belcher and Fryar stated their support of the resolution.

Commissioner Newman said that public transparency was important; however, he felt that establishing this policy was not appropriate, stating that there were specific reasons allowing closed sessions and those sessions need to be preserved. He said that the requirements for what can and cannot be disclosed are followed and are appropriate for those sessions.

The Clerk gave the procedures for recording closed sessions stating that a written record was kept; however, no formal action could be taken in closed session and only what could legally be released without defeating the purpose of the closed session was in the official record.

Ben Teague, Vice President of Economic Development for the Asheville Chamber, said that confidentiality is very important to businesses here and those that are being recruited. He felt that the adoption of this resolution could negatively affect future prospects as it is not really a site selection but rather a site elimination process.

The County Attorney said that the statutes already allow audio and video recordings if and when necessary. Commissioner DeBruhl moved to adopt the resolution. Commissioner Belcher seconded the motion.

Don Yelton criticized the democrats and wanted all boards and commissions to record closed sessions.

Jerry Rice said that the minutes reflect the attorney's record not what actually happened.

Betty Jackson expressed her dissatisfaction.

The motion failed as follows:

AYES: Commissioner DeBruhl, Fryar, Belcher

NOES: Chairman Gantt, Newman, Jones and Frost.

- **Approval of the Minutes of the March 17, 2015 Emergency/Closed Session**

Commissioner Fryar said that he was opposed to the account of the closed session.

Chairman Gantt moved to approve the minutes as submitted. Commissioner Frost seconded and the motion passed:

AYES: Chairman Gantt, Commissioners Frost, Jones and Newman

NOES: Vice Chair Belcher; Commissioners DeBruhl and Fryar.

Board Appointments

• Planning Board Appointments

Vice Chair Belcher moved to appoint Jim Young, Josh Holmes and Bernie Kessel to the Planning Board. The motion failed as follows:

AYES: Vice Chairman Belcher; Commissioners DeBruhl and Fryar

NOES: Chairman Gantt; Commissioners Frost, Jones and Newman

Enka District

Commissioner Frost nominated **Nancy Waldrop** to serve on the Planning Board as the Enka District representative. The motion passed 7-0.

N. Buncombe District

Commissioner Frost nominated David Rittenberg and Commissioner Fryar nominated Ed Sheary to serve on the Planning Board. **David Rittenberg** was appointed

Reynolds District

Commissioner Frost nominated Bob Taylor and Commissioner DeBruhl nominated Billy Taylor. **Bob Taylor** was appointed.

Asheville School District

Commissioner Jones nominated Gene Bell and Vice Chair Belcher nominated Thomas Muncy. **Gene Bell** was appointed.

Erwin District

Vice Chair Belcher nominated Josh Homes and Commissioner Frost nominated Joan Walker. **Joan Walker** was appointed.

Roberson District

Commissioner Fryar nominated Dusty Pless; Commissioner Newman nominated Lee Thomason. **Dusty Pless** was appointed.

Owen District

Commissioner Frost nominated Thad Lewis; Commissioner DeBruhl nominated Phillip Walker. **Thad Lewis** was appointed.

At Large

Commissioner Newman nominated Parker Sloan and Vice Chair Belcher nominated Bernie Kessel. **Parker Sloan** was appointed.

Commissioner Jones nominated Robert Martin; Vice Chair Belcher nominated Josh Holmes and Commissioner DeBruhl nominated Lee Thomason. **Robert Martin** was appointed.

The Board agreed to set staggered terms for the members at the May 5 meeting.

• Women's Commission

Commissioner Jones moved to appoint all the women who applied to the Women's Commission. She said that this was a new beginning for the commission. Commissioner Frost seconded and the following women were appointed: **Catherine Campbell, Melisa Giddens, Carol Polsgrove, Maggie Hoop, Carrie Myers, Stephanie Biziewski, Carolina Brigmon, Dr. Lisa Walker, Mindy Fisher, Catherine Mitchell, Margaret Barry, Sharon West, Hilary Salvati, Catherine Cottam, Terry Bellamy, Theresa Orsler, Shelley Brown, Wendy Marsh, Jacqueline Brannon, Deborah Calhoun.** Following some discussion of the terms for the members, the Board agreed to discuss the terms at the May 5 meeting.

Announcements

The Chairman made the following announcements:

- *April 21 – Noon – The Board will hear from non-profit agencies in Room 326 at 200 College Street*
- *April 21 – 4:30 p.m. – the Board will meet with Volunteer Fire Chiefs in the First Floor Conference Room at 200 College Street in downtown Asheville.*
- *April 28 – 11:30 a.m. – The Board will attend the annual County Employee Service Award Ceremony at the Frist Baptist Church in Asheville*
- *May 5 – 4:30 p.m. – The next regular meeting of the Board in Room 326 at 200 College Street in downtown Asheville*

Vice Chair Belcher moved to go into closed session pursuant to GS 143-318-11a(4) to consider an economic development matter. The motion passed 7-0.

Closed Session

The County Attorney said that the economic development staff at the Chamber, representing a company that was considering locating in the County, had suggested that the Board sign a non-disclosure statement to make the company more comfortable while negotiations were underway. EDC staff as well as the County Manager and Assistant County Manager have signed similar agreements in the past.

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

Vice Chair Belcher moved to adjourn the meeting. Commissioner Frost seconded and the motion passed 7-0. The meeting was adjourned at 9:40 p.m.

KATHY HUGHES, CLERK TO THE
BOARD OF COMMISSIONERS

DAVID GANTT, CHAIRMAN
BOARD OF COMMISSIONERS