

**MINUTES OF BUNCOMBE COUNTY BOARD OF COMMISSIONERS'  
REGULAR MEETING OF FEBRUARY 5, 2013 AT 4:30 P.M.**

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**BE IT REMEMBERED:** That the Board of Commissioners met in regular session on February 5, 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  
Joe Belcher, Commissioner  
Ellen Frost, Commissioner  
Mike Fryar, Commissioner  
Holly Jones, Commissioner  
David King, Commissioner  
Brownie Newman, Commissioner

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

**PLEDGE OF ALLEGIANCE**

**INVOCATION**

The Chairman 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 Jones moved to approve the consent agenda as presented. Commissioner King seconded and the motion passed 7-0.

- Approval of Minutes of the January 15, 2013 Regular Meetings
- Budget Amendments – Fund 10 – Social Services LIHEAP Federal Funding Received \$245,284
- Special Projects Ordinance
- Transfer and Establish the Public Safety Training Facility Manager Position

**PUBLIC HEARINGS**

- **Zoning Recommended by the Planning Board**

Debbie Truempy said that this zoning was requested by the Planning Board for property near the Asheville Regional Airport that had previously been unzoned. Recent general assembly action transferred zoning rights from the City of Asheville to the County for 16.23 acres in a mixed use area. Ms. Truempy said the authorities at the Asheville Airport were concerned with possible construction on the property. The Planning Board held a public hearing on October 1 and found that zoning the property EMP (employment) would be consistent with the Land Use Plan, reasonable and in the public interest. The Planning Board voted unanimously to recommend the zoning.

The Chairman opened the public hearing at 4:40 p.m.

Mike Summey, owner of a 3.5 acre property that would be part of this EMP area, passed around photos of proposed construction projects on the property. He said that the project was approved by the FAA and that zoning was not important on the property.

Mark Reisman, Deputy Executive Director of the Asheville Airport, said that the property is located adjacent to the airport and the authority had concerns about construction on the property. He explained

that the County was subject to federal grant assurances and shared liability for any adverse effects of the zoning. He said that the airport needed the protection of a zoning overlay with height limits and other considerations to assure the airport would not lose FAA Grant funding.

Jerry Rice said that the Board should listen to Mr. Summey and stop the zoning of the property.

The Chairman closed the public hearing closed at 4:49 p.m.

Ms. Truempy said that Mr. Summey had not submitted an application but would probably be able to build the project under the EMP zoning district with FAA approval. Commissioner King asked if Mr. Summey's project could be grandfathered if it met the FAA regulations. Ms. Truempy said o contingencies could be placed on properties; however, since the project had been in the planning stages for several years, it could possibly be considered for a variance.

Mike Frue, County Attorney, said that as primary grant sponsor with the Asheville Airport, the County had signed off on airport grant funds and were bound by those documents that require land use restrictions in accessible areas. FAA future requests could hinge on this approval. The Planning Board is looking at changes to the land use plan and an overlay for airport needs.

Commissioner Newman moved to support the Planning Boards recommendation of the EMP zoning for this property finding that it was reasonable and in the public interest. He said that there was countywide zoning that applied to all other property owners and special consideration should not be given to just this one property owner. He said that there should be initial land use policies around the airport; however he accepted the project concept and development would be great for this area.

Commissioner Jones seconded the motion.

Commissioner Fryar said that the construction was a planned before zoning was instituted and Mr. Summey should be able to go forward with his plan with no further expense due to zoning.

Commissioner King asked for protection of the project within the zoning recommended. Ms. Truempy said that once a property is zoned, all construction must go through the process. No exceptions. She said that the EMP height maximum is 90 feet so this 140 foot project would require a variance in height.

Commissioner Newman asked if there were other zoning categories that would sink up more closely with this project. Ms. Truempy said that none of the zoning districts other than EMP would allow anything close to this height. An airport overlay could include height variances and adjustments that could be beneficial to development in this area.

Commissioner Newman withdrew his motion

Commissioner Belcher asked to have this referred to the Planning Board to take the burden off the petitioner and come back with a better recommendation.

Commissioner Frost suggested that the property not be left unzoned.

Commissioner Jones suggested postponing the decision until the Airport overlay was complete.

Commissioner Newman suggested higher level of review for height regulations.

Commissioner King asked that Summey work with the Airport Authority and the Planning Board and staff to find a way to make this happen.

Commissioner Jones withdrew her second to Commissioner Newman's previous motion and moved to postpone the decision until October 1, 2013 for a final vote on the zoning of this property. Commissioner Belcher seconded and the motion passed as follows:

AYES: Chairman Gantt, Commissioners Belcher, Jones, King Fryar and Newman

NOES: Commissioner Frost

## **NEW BUSINESS**

- **Election of Vice Chairman**

Commissioner Newman moved to nominate Commissioner Jones as Vice Chair of the Commissioners for a two year term.

The County Attorney pointed out that the Vice Chair can only serve a one year term (ending the first meeting in December). Commissioner Newman's motion died for lack of a second.

Commissioner Newman moved to nominate Commissioner Jones for a one year term. Commissioner Frost seconded and the motion passed 7-0.

- **Advertising Delinquent Real Property Tax Liens**

Gary Roberts, Tax Director, reported that the current collection rate was at 94% for property and 75.67% for motor vehicles—a total combined rate of 93.12% which was about 5% ahead of last year. He said that the North Carolina General Statutes require governments to advertize unpaid real estate tax bills sometime between March 1 and June 30 of every year. Mr. Roberts requested the Board approve the date of March 24 for the advertisement of delinquent bills stating that the cost of this advertisement would be charged back on each of the delinquent bills.

Commissioner Belcher asked if there were other ways to meet these requirements at no or lower cost. Mr. Roberts said that the general statutes require that the advertisement be done in a newspaper of general circulation and does not accept posting on a website alone.

Commissioner King moved to accept the date and authorize the advertisement on March 24. Commissioner Jones seconded and the motion passed 7-0.

- **Adoption of County Rules and Procedures**

The County Attorney reviewed the Commissioners' current rules and procedures.

Commissioner Jones moved to amend Section 11(A) to approve adding the ability to email the Commissioners' notices/packets. Commissioner King seconded and the motion passed 7-0

Commissioner King moved to add language to Section IV (a) adding the authority to the Chairman to work in cooperation with the County Manager in the agenda process. Commissioner Jones seconded and the motion passed 7-0.

Commissioner Fryar moved to add to Section IV (d) that any two Commissioners may move an item from Consent Agenda to New Business. Commissioner Belcher seconded and the motion passed 7-0.

Commissioner Newman moved to add to Section IV (e) that any 3 Commissioners in agreement may add an item to the agenda and the Chairman may add items at his discretion. Commissioner Frost seconded the motion and it passed 7-0

Commissioner Frost moved to amend Section XIII (a) to put the public comment period at the beginning of the meeting. Commissioner Belcher seconded the motion. Following some discussion, the motion passed 7-0.

Commissioner Belcher moved to amend Section V (b) to require 3 Commissioners to agree to add an item to Old Business. Commissioner King seconded and the motion passed 7-0.

Commissioner Frost moved to leave the pledge and prayer as it is currently handled. Commissioner Belcher seconded and the motion passed 7-0.

The County Attorney said that, in reference to Section XVII (b) of the rules, cameras cannot block ingress or egress from the Commission Chambers and the Fire Marshal suggests that the area around the doors be kept unrestricted. Commissioner Fryar asked that the media or citizens wishing to film the meeting be allowed to film under the camera on the right of the room. Commissioner Belcher suggested that the County Attorney consult with the Fire Marshal and law enforcement and report their recommendation.

Commissioner Newman moved to have the Board appointments that require a Commissioner to serve be reviewed every two years. Commissioner Frost seconded and the motion passed 7-0.

## **BOARD APPOINTMENTS**

Commissioner Frost moved to appoint Commissioner Fryar to serve on the **Audit committee**. The motion passed 7-0.

Commissioner Jones moved to appoint Commissioner Frost to the **Land of Sky Regional Council**. The motion passed 7-0.

Commissioner King moved to appoint Commissioner Frost to the **Juvenile Crime Prevention Council**. The motion passed 7-0.

Commissioner Belcher moved to appoint Commissioner King to the **Economic Development Coalition**. The motion passed 7-0.

Commissioner Frost moved to appoint Commissioner Newman and Vice Chair Jones to the **Transportation Advisory Committee**. The motion passed 7-0.

Commissioner Frost moved to appoint Commissioner Belcher to the **Tourism Development Authority**. The motion passed 7-0.

Commissioner Newman moved to appoint Commissioner King to the **Health and Human Services Board**. The motion passed 7-0.

Commissioner Fryar moved to appoint Commissioner Frost to the **Smart Start Board of Directors**. The motion passed 7-0.

Commissioner Newman moved to appoint Commissioner Frost to the **Crime stoppers Board of Directors** as a liaison. The motion passed 7-0.

Vice Chair Jones moved to reappoint Mark Morris, Jim Edmonds, Kendall Wright, Jerome Jones and Brad Freeman to the **Board of Equalization and Review** for a one year term. The motion passed 7-0.

Commissioner Fryar moved to appoint Larnel Blair to the **Asheville Transit Commission**. The motion passed 7-0.

## ANNOUNCEMENTS

- *The next regular meeting of the Board will be February 19 at 4:30 p.m. in Chambers at 200 College Street, Room 326, 3<sup>rd</sup> Floor*
- *The Board will hold a budget workshop beginning at 4:30 p.m. on February 12 in Chambers at 200 College Street, Room 326, 3<sup>rd</sup> Floor*
- *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 stating that the official business of the County had concluded and public comment would be taken under the following rules:*

- *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.*

The Chairman inserted into the record a petition from Mark Fields regarding School Resource Officers. Jerry Rice said public comment should be before and after the meetings and longer than 3 minutes.

Mary Standard wanted the Land Use Plan to cover renewable energy and solar farms. She said that there was a potential solar farm for the Ridgecrest area and a public hearing had been set for March 27.

Al Rostenthal said he felt public comment should be held at the beginning and end of every meeting.

Alan Ditmore was disturbed by the zoning discussion and the psychological demands of variances.

Commissioner Jones moved to go into closed session pursuant to GS 143-318-11a (4) for one economic development discussion with no action to be taken. Commissioner King seconded and the motion passed 7-0.

## CLOSED SESSION

Jon Creighton, Assistant County Manager, gave an update on a potential economic development incentive for an existing company that would make a \$300 million investment and bring 270 jobs to our area and have a statewide impact. The Board gave consensus to have the Manager continue to negotiate a deal to solidify the company's expansion in the County.

Commissioner King moved to return to open session. Commissioner Fryar seconded and the motion passed 7-0.

Commissioner King moved to adjourn the meeting. Commissioner Fryar seconded and the motion passed 7-0.

The meeting was adjourned at 7:45 p.m.

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KATHY HUGHES, CLERK TO THE  
BOARD OF COMMISSIONERS

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DAVID GANTT, CHAIRMAN  
BOARD OF COMMISSIONERS