

**MINUTES OF BUNCOMBE COUNTY BOARD OF COMMISSIONERS'
REGULAR MEETING OF MARCH 17, 2009 AT 4:30 P.M.**

BE IT REMEMBERED: That the Board of Commissioners met in regular session on March 17, 2009, in the Commissioner Chambers, Room 204 of the Courthouse 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
Bill Stanley, Vice Chairman
K. Ray Bailey, Commissioner
Holly Jones, Commissioner
Carol Peterson, Commissioner

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

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION

David Gantt, Chairman, gave the invocation.

DISCUSSION/ADJUSTMENT/APPROVAL TO FOLLOW AGENDA

Commissioner Peterson moved to approve the consent agenda as presented.

- Approval of Minutes of March 3, 2009 Regular Meeting

- Release Report

- Budget Amendment
 - Fund 10 - School Based Health Center

 - Capital Projects Ordinance

- Solid Waste Capital Projects Ordinance

- School Capital Commission Fund

Commissioner Stanley seconded and the motion passed 5-0.

Good News

- **New Web Site from Cooperative Extension**

Mary McGlaufflin, Cooperative Extension office, said that the cooperative extension staff has put together a program to help the community thrive and survive in troubled times. They have identified resources that are available to the citizens and put them on the website in one place-- including debt management, stress management and other events that support back to basics program. The Chairman thanked the extension agency for always being ahead of the curve and very active in helping the community.

- **Industries for the Blind**

Clark Duncan from the Asheville Chamber introduced the management board with Industries for the Blind. Dan Ballard, Executive Director, said that their industry has recently added 21 jobs to bring the company to a total of 75 employees that are legally or totally blind and 85 percent

have never had a job until their work with the industry and are now self-sufficient. He said that they never turn a blind person away and in the last 15 years have never laid a blind person off. He said that the industry works for the federal government and make products for the military such as the poncho liner that every soldier is issued. They are the exclusive supplier of these liners and just got a \$4.5 million order. They also provide product hangers to all the military stores and office supplies for all government offices.

Commissioner Bailey said that he has toured the plant and would encourage everyone to see how they do this excellent operation.

PUBLIC HEARING

- **Rezoning Request – Lisa Stephens, M Realty Rezoning from R-3 to EMP**
 - **9654.11.5212 and 9654.00-7733**

The Chairman opened the public hearing at 4:47 p.m.

Jim Coman, Zoning Administrator, said that this property was zoned employment and the owner was requesting a rezoning to R-3 to put in more singlewide mobile homes for affordable housing in Wellington Park. The Planning Board approved the request unanimously and heard no negative comments.

Mike Fryer asked about Asheville's annexation of Wellington Park on Airport Road. Jim Coman said that the annexation is scheduled for March 31. The applicant is dealing under today's rules and providing affordable housing. This is the largest mobile home park in the County.

The Chairman closed public hearing at 4:50 p.m.

Commissioner Jones moved to approve this request as presented. Commissioner Stanley seconded and the motion passed 5-0.

- **Economic Development Incentive – Plasticard-Locktech International**

The Chairman opened the public hearing at 4:50 p.m.

Jon Creighton, Assistant County Manager, said that this expansion at Plasticard totaled \$2.9 million and added 38 employees. Randy Fluharty with Plasticard thanked the County for the incentive. He said that the company is the world's largest manufacturer of hotel key cards and is expanding into gift cards and membership cards and store value cards all over the world. He said that they are looking for new markets internationally and new areas once the downturn is over. *Mr. Fluharty said that it is a myth that hotel key cards record personal information.*

Jerry Rice asked how many employees they have from outside Buncombe County. He said that other counties should share in the contributions to the incentives.

Mr. Creighton said that the incentive is based on quality of jobs and number of employees and the amount of the investment of the company. He said that vast majority of these jobs go to Buncombe citizens. Commissioner Jones asked for the breakout of the employee base.

Mr. Creighton recommended an investment grant of \$45,000.

Commissioner Stanley moved to approve the incentive as requested. Commissioner Peterson seconded the motion. The motion passed 5-0.

- **Elderly and Disabled Transportation Grant**

Lori Hembree, County Planner with Mountain Mobility, said that this application would address transportation for the elderly and disabled citizens for whom mass transit is not appropriate. Overall goals of the grant include increasing independence and self esteem of older adults and individuals with disabilities.

The Chairman opened the public hearing at 5:07 p.m.

Jerry Rice asked about the cost of riding mountain mobility as compared to using a taxi service. Ms. Hembree said that out of pocket expense would be more for the taxi service

because it is door to door at the time they desire.

The Chairman closed the public hearing at 5:09 p.m.

Commissioner Peterson moved to approve the grant application as presented.

Commissioner Stanley seconded and the motion passed 5-0.

NEW BUSINESS

- **Aging Plan Update**

Beth Lazer, Aging Coordinating Consortium, and Lisa Kendall Fields, project coordinator, gave a power point presentation that is attached to the minutes. They reviewed the plan for addressing the needs of our aging population and gave an update on implementation of that plan. The Board contracted with Land of Sky and Area Agency on Aging to oversee the implementation of the plan.

Ms. Lazer said they are updating and refining the plan and looking at other priorities. They asked for continued support of their efforts.

- **Pack Square Park Update**

Guy Clareci, Chairman of the Pack Square Board, introduced the new executive director Gary Ginat and Charles Russell, Treasurer.

Gary Ginat, Executive Director of the Pack Square Conservancy, reviewed the changes in the design maps from 2004 to 2008 including the changes in the park construction increasing the size of the pavilion which would house bathrooms, programming space and pack square offices. Charles Russell, Treasurer, reviewed the budget for the park that is attached to the minutes. He said that \$20,200,864 is the anticipated budget for the park. They had \$1.9 million in cash and \$5 million in pledges. He said that the auditors were reviewing the 2008 budget now. They have spent \$8,027,000 on the park. They have applied for a line of credit of \$2 million to be used if needed.

Chairman Gantt thanked the volunteers for working so hard on this effort. He said that the public perception is that the budget is out of control. Mr. Russell said that there were many time delays and unforeseen infrastructure problems on property which increased the budget substantially.

Commissioner Jones asked how to reconcile the totals on the balance sheet and the spread sheet. Mr. Russell said that there are pledges that have not been recorded.

Mr. Clareci said that the price of the park has escalated based on infrastructure problems and much of it is from making the project much bigger than it was at the beginning. The construction project costs changed and grew but the City is getting a world class park. Donna Clark, Communications Director, said that material price increases were huge as a result of Katrina—the price of steel doubled and asphalt and concrete went up 40 percent over a three year period.

Commissioner Peterson thanked everyone stating that lot of questions could have been addressed if they had made regular reports. She was glad that the work was almost done and urged them to talk to the public about the park. Commissioner Jones asked about the lack of funding and how they were going to find the remaining money. She said that there should be more trimming of expenses and urged them not to go into debt at this time.

Mr. Russell said that he was confident that the \$3.5 million fund raising campaign would be successful. He said their concern is the collection of the pledges and they are hoping not to have to use their contingencies. Mr. Ginat said that there are \$5 million in grants and other applications on the table and clarified that the endowment is not part of the \$20 million construction costs.

Commissioner Bailey moved to accept the changes to the construction plan. Commissioner Stanley seconded and it passed 5-0.

Commissioner Peterson moved to approve the budget as presented, Commissioner Stanley seconded the motion.

Commissioner Jones asked about the bids for material upgrades and the possibility of reducing the budget \$1 million. Mr. Clarici felt it was a smart, conservative move to leave the contingency in the budget. Commissioner Jones said that she is deeply concerned with the budget and recommended that when they come for their report in May they consider presenting some budget amendments that would reduce the budget. The motion to approve the budget passed 5-0.

- **Western Highlands Report**

Donna Clark, Finance Director, gave the Western Highland Monitoring Report as attached to the minutes. She said that the area authority is required to submit a quarterly report which is attached. She said that they have appropriated a large amount of fund balance to meet need for services. They have covered their shortfall and are monitoring they budget for cash flow.

Commissioner Peterson to accept the report as presented. Commissioner Stanley seconded and the motion passed 5-0.

- **Resolution Setting Time and Place for Regular Meetings of the Board of Commissioners**

The Chairman said that the Board had been meeting in these Chambers for 81 years and will be moving out after this meeting to adequately meet the needs for the courts.

Commissioner Peterson to approve the resolution as presented. Vice Chairman Stanley seconded this motion stating that he felt the Commissioner belong in the Courthouse but that it was time to go. The motion passed 5-0. Commissioner Jones and the Board thanked the clerk for her work on the transition.

- **Resolution Authorizing the Submission of a Grant Application and Execution of Documents Related to the Criminal Justice Partnership Program**

Kevin Hickey, Day Reporting Center Director, gave a report on their work that is funded through the Department of Correction for structured sentencing. They served 58 offenders in 2008 and have 25 as of this year. He said that 82 percent of participants have been successful through the program. He asked the Board to approve the resolution for submission for grant funding this year.

Commissioner Peterson moved to approve this resolution and suspend the reading. Vice Chairman Stanley seconded and the motion passed 5-0.

- **Spring Litter Sweep**

Commissioner Stanley moved to suspend the reading and approve this proclamation. Commissioner Peterson seconded and the motion passed 5-0.

- **County Facilities Option**

The County Manager said that she would are not be making a recommendation on an acquisition of property and that any future plan would leave many services downtown. The human services complex expansion will remain on hold. A subcommittee had been working on how to address the overcrowding in the courthouse and court space and have made a proposal for an \$80 million solution of renovation and new facility; however this renovation cannot begin

until the life safety tower is complete and that cost is significant. She said that her criteria for meeting space needs included no tax increase and convenience for the citizens. She said that staff had reviewed 28 properties that were possible locations for construction of new offices. The top options were reviewed by the staff and audit committee and in this financial climate she would recommend that no decisions be made but that staff be allowed to continue seeking and evaluating and report in the future. The Board members agreed with this recommendation due to the uncertain future financial conditions throughout the state and nation.

BOARD APPOINTMENTS

Vice Chairman Stanley moved to appoint **Arthur Salido** to the **Asheville Buncombe Community Relations Council**. The motion passed 5-0.

ANNOUNCEMENTS

- *The next regular meeting of the Board will be Tuesday, April 7 at 4:30 p.m. at 30 Valley Street in downtown Asheville.*
- *Members of the Board will be attending the Culinary Showcase at AB Tech on April 2 at 6 p.m.*

The Associate County Attorney said that the Board would need a closed session pursuant to GS 143-318.11 for two legal matters involving the Pack Heirs Lawsuit and the Thrash vs. Buncombe County Zoning lawsuit. No action on these issues would be taken in open session.

Commissioner Peterson moved to go to closed session after public comment. Vice Chairman Stanley seconded and the motion passed 5-0.

PUBLIC COMMENT

Al Gumpert spoke about the hillside ordinance and referenced a letter to the Planning Board which is attached to the minutes. He said that the Planning Board and staff did not consider infrastructure when implementing the hillside ordinance. He wants strict controls on hillside development. He requested that the Planning staff and Board be instructed to enforce the ordinance as written.

Jerry Rice said that Biltmore Square Mall would be the best bet for addressing the parking needs. He said that it is disturbing that so many people in the County use social services. He applauded the Board for their move out of the Courthouse.

Jeff Isreal, employee of Evergreen Packaging in Canton, asked the Board to endorse and encourage everyone to commit to a resolution asking state and local leaders to commit to the buy America products in support of American workers. Commissioner Stanley will add to the April 7 meeting.

CLOSED SESSION

The Associate County Attorney reported on status of the Pack heir's lawsuit appeal. No action was taken.

The Associate County Attorney reported that the Count of Appeals had ruled against the County in the Thrash vs. County lawsuit involving the Multi-Family Ordinance and the zoning ordinance. He said that he had not read the decision and was not ready to report further. The Board agreed to continue the meeting to hear further advice from their attorney.

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

OPEN SESSION

Vice Chairman Stanley moved to continue the meeting until March 24 at 3 p.m. (later changed to 3:30 p.m.) Commissioner Peterson seconded and the motion passed 5-0.

The Board met in continued session on March 24, 2009 at 3:30 p.m. in their Commission Chambers at 30 Valley Street in downtown Asheville.

The Chairman called the meeting to order with the following members present:

David Gantt, Chairman
Bill Stanley, Vice Chairman
K. Ray Bailey, Commissioner
Holly Jones, Commissioner
Carol Peterson, Commissioner

Staff present were: Wanda Greene, County Manager; Mandy Stone, Assistant County Manager; Donna Clark, Finance Director; Kathy Hughes, Clerk to the Board; Mike Frue, Assistant County Attorney; Mike Goodson, Stormwater Administrator; Jim Coman, Zoning Administrator; Matt Stone, Permits and Inspection Director.

Commissioner Peterson moved to follow the agenda as presented. Vice Chairman Stanley seconded and the motion passed 5-0.

1. **Resolution Authorizing The Execution Of An Application For Clean Water State Revolving Funds For The Expansion Of The Buncombe County Subtitle D Landfill Wastewater Pretreatment System**

Leigh Deforth, County Planner said that this application is for funding that is part of the stimulus package through a clean water grant. This grant will enable the completion of a project of recirculation of wastewater through the landfill helping to harness the methane gas allowing the landfill to help power 1100 homes through French Broad Electric. The grant application is due April 3. Ms. Deforth said that the grant would use in-house employees to complete the project but would be purchasing American made equipment as required by the stimulus funding.

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

The Chairman noted that this was the first meeting in the new Chambers. He thanked staff for their work to get the Commissioners moved out of the Courthouse.

Vice Chairman Stanley moved to go into closed session to discuss COA08-229 and COA08-327. Commissioner Peterson seconded and the motion passed 5-0.

CLOSED SESSION

The Board discussed the Court of Appeals decisions regarding the multi-family ordinance and the County's zoning ordinance. The Associate County Attorney advised the Board how the rulings will impact the current ordinance and advised them on what actions they could legally take at this time.

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

The Chairman stated that as a result of the March 17 Court of Appeals decision that would invalidate the current zoning ordinance in Buncombe County, the Board desires to reinstate the zoning text and maps as they were prior to said ruling. He said that the Board was committed to the zoning plan and would support a limited moratorium designed to limit undesired land uses including adult establishments, amusement parks, asphalt plants, concrete plants, chip mills, hazardous waste facilities, incinerators, junkyards, landing strips, motor sport facilities, outdoor

shooting ranges, slaughter plants, mining and extraction operations and solid waste facilities. The Chairman said that the Board would not support a referendum on the zoning issue.

The Chairman moved to instruct the staff to begin with expedience, the process to reinstate the zoning plan as it was prior to the court of appeals ruling and to set a public hearing for April 3, 2009 at 2 p.m. to consider a moratorium on the following land uses: adult establishments, amusement parks, asphalt plants, concrete plants, chip mills, hazardous waste facilities, incinerators, junkyards, landing strips, motor sport facilities, outdoor shooting ranges, slaughter plants, mining and extraction operations and solid waste facilities. Commissioner Peterson seconded the motion and it passed 5-0.

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

KATHY HUGHES, CLERK TO THE
BOARD OF COMMISSIONERS

DAVID GANTT, CHAIRMAN
BOARD OF COMMISSIONERS