

**MINUTES OF A
WORK SESSION
OF THE JACKSON COUNTY
BOARD OF COMMISSIONERS
HELD ON
SEPTEMBER 12, 2023**

The Jackson County Board of Commissioners met in a Work Session on September 12, 2023, 1:00 p.m., Justice and Administration Building, Room A201, 401 Grindstaff Cove Road, Sylva, North Carolina.

Present: Mark A. Letson, Chairman	Don Adams, County Manager
Mark Jones, Commissioner	Debra Bechtel, Interim County Attorney (Via Zoom)
John W. Smith, Commissioner	Angela M. Winchester, Clerk to the Board
Tom Stribling, Commissioner	Darlene Fox, Finance Director

Absent: Todd Bryson, Vice Chair

Chairman Letson called the meeting to order.

(1) ECONOMIC DEVELOPMENT ADMINISTRATION GRANT: Tiffany Henry, Economic Development Director and Becca Scott, Director of Community Economic Development, Southwestern Commission (Via Zoom), were present for this item.

Ms. Henry requested the Board to allow her office to apply for an Economic Development Administration (EDA) Grant to perform engineering work on the county owned property formerly known as Drexel. The grant would be to perform extensive engineering that would allow for a definitive determination of the highest and best use of this site. The grant application was for \$335,000 and the county was eligible for 80% funding under this program. The grant would require a \$71,000 match commitment from the county, if they were awarded.

Mr. Adams stated this property had been discussed continuously over the years to find the highest and best use. It was currently leased to a group formed by farmers with limited use. He shared a map showing the floodway on the property. Because of the floodway designation, if they wanted to build on the property they would have to go through extensive engineering. There were 27.82 acres of flat property that could potentially be used.

There was a berm on the property that was allowed by the federal government, which was why the area was not previously in the floodway. In 2010, the federal government reassessed and disqualified the berm, which placed the entire area into the floodway. In order for everyone in the county to be able to get flood insurance, the county had to enforce the flood program as dictated by the federal government.

The study should provide the cost estimates to fix the berm to be allowable by the federal government. There were many potential uses for this property, if it were not in the floodway. He noted there were potential artifacts located on this site from the EBCI that would have to be taken into consideration. Also, the building on the property contained about 8,000 SF, but was dilapidated.

General discussions were held.

Mr. Adams stated they had received positive feedback from the EDA of their willingness to partner with the county for the \$335,000 project. The county match of \$71,000 was proposed to come out of the Economic Development Fund.

Consensus: *Add this item to the next regular meeting agenda for consideration.*

(2) OFFER TO PURCHASE AND CONTRACT: Mr. Adams presented an offer received in the amount of \$275 for Lot B, Pilot Mountain, which had a tax assessment of \$18,430. The county had \$2,600 in the property when it was foreclosed on in 2016. Per county policy, the Board would not entertain any bids less than the amount the county had invested in the property until a minimum of one year after taking ownership of the property. If the Board chose to move forward with this offer, it would then go into an upset bid process advertising the offer in the newspaper. He provided the GIS map of the property showing its location and features.

General discussions were held.

Consensus: *Do not move forward to accept the offer. Mr. Adams to contact NCDOT to discuss if NCDOT may have an interest in the property.*

(3) FONTANA REGIONAL LIBRARY AGREEMENT: Mr. Adams stated this was a follow up from a presentation made at a previous meeting. He turned the conversation over to the Board for general discussions.

Commissioner Smith stated he had discussions with two members of the Macon County Board of Commissioners, who notified FRL they were going to review the entire contract, which they were in the process of doing. The letter Mr. Adams previously presented from the County Managers was a start, but Macon County was not ready to go forward on that route either. Macon indicated they would have a new contract to present to the other counties to review and discuss in October or November.

He did not believe the County Manager letter had enough teeth. There would be another meeting with the Macon members next month, but it had not been scheduled. Two Commissioners from Swain County would be at the next meeting. He asked if the meeting should include all County Commissioners and be official?

Chairman Letson stated they could not have three Commissioners in the room at the same time. If they were creating a committee to discuss a contract, was that legal? If they brought in two individuals from each county to discuss an entity, would that be legal?

Ms. Bechtel stated as long as no formal committee existed, as far as two representatives from each Board as a public body and there was not a majority of representation from the FRL Board, then it was permissible because they did not have a majority. They could not make any decisions because they were not a formal body. They could only have discussions and then come back to the formal Board at an open meeting to have that conversation in public with the full Board.

General discussions were held.

Mr. Adams stated at some point, the Jackson County Board of Commissioners had to decide what they wanted to do as a county and what they were attempting to accomplish. Formed committees became public. At that time, there was no formal appointment of anyone to attend this meeting.

Ms. Bechtel stated if the Board formally voted on two Commissioners to be on the committee with the other two counties, it would then officially be a subcommittee, which would be subject to the Open Meetings Law.

Chairman Letson stated at that point, he recommended the Board create a set of goals and objectives for the next contract and see if the other counties were in agreement.

Informational item.

(4) HUMAN SERVICES CONSOLIDATION: Mr. Adams stated this item was for questions and general discussions by the Board. Notice had been published in the newspaper for a public hearing on October 3rd at 5:45 p.m. The notice was broad in scope to allow all options to be considered.

He restated the options:

(a) Options Under “New” Law:

- Option 1: Board of Commissioners to become the Department of Social Services and/or the Health Department.
 - Departments not consolidated
 - BOCC assumes powers and duties of board(s) after public hearing with a minimum 30-day notice
 - BOCC appoints department directors
 - If public health affected, must appoint health advisory committee
 - Employees subject SHRA
- Option 2: Board of Commissioners create a consolidated Human Services Board and then a Consolidated Human Services Agency.
 - BOCC creates CHSA and appoints CHS board
 - Manager appoints CHS director with advice and consent of CHS board
 - CHS director appoints person with health director qualifications
 - SHRA option
- Option 3: Board of Commissioners becomes the Consolidated Human Services Board and then has a Consolidated Human Services Agency.
 - BOCC creates CHSA and assumes powers and duties of CHS board after public hearing
 - Manager appoints CHS director with advice and consent of BOCC acting as CHS board
 - CHS director appoints person with health director qualifications
 - SHRA option
 - If agency includes PH, must appoint health advisory committee
- Option 4: Remain in the current status. This would keep the Department of Social Services Board and the Health Board. These boards provided oversight for the Department of Social Services and the Health Department.

Commissioner Smith stated to clarify, with Option 3, the Commissioners would become those boards, but would appoint a council that advised.

Mr. Adams stated any scenario where the Commissioners would take over the Health Board, would require the Commissioners to appoint an advisory board. The advisory board would have similar requirements of the existing Health Board, but did not limit them from appointing people with Social Services experience on the advisory board.

Commissioner Jones stated he had five to six people approach him and all were against consolidation. Two of them were employees of the agencies. He had zero communications in favor of consolidation. DSS was currently under a lot of stress with the foster childcare needs in the county and the employees at DSS were also dealing with the “what ifs” as they moved forward with potential consolidation.

About 32 counties out of 100 in the state had consolidated with most being municipalities or counties with 100,000 or more in population, which did have some financial cost-savings benefit. He had not yet seen what the cost-savings benefit would be for the county. Also, the DSS Board had five members. The county appointed two of those members and had never appointed a Commissioner, but they could. When those appointments came up, they could appoint themselves to be on the board and could then sway policy, if that was an issue.

With the Health Board, Commissioner Stribling was currently serving on that board. Another Commissioner could also attend those meetings and share their positions. Some of these options put a lot of power in the Commissioners' hands. DSS and the Health Department dealt with sensitive information and he did not want to be a part of that structured area. Also, drug testing was already done by the Health Department, except for county employees.

If it was a non-structured concern the Commissioners had, they should address the billboard, Facebook, website concerns that may be out there. He implored the Commissioners to really think this through because these actions were very significant to a lot of people in the county.

Commissioner Stribling stated he was at the Health Board meeting on the 29th and a lot of people were scared. He was asked what medical background he had. He had none. They tried this once in 2018 with the goal to be a one-stop shop and it failed. The Health Board was concerned about the department losing control of their board to uninformed people, like himself.

In North Carolina, 32 out of 100 counties had implemented this and it was not working well for them. The Health Board disagreed with consolidation. There was a suggestion of a possible one cent tax increase to elevate low pay to get more people to work. The Health Board believed it was all running smoothly at that time, so if it was not broken, what were they trying to fix. He thought they should leave it the way it was currently.

Chairman Letson stated HIPAA prevented personal data from being shared with the Commissioners. They were not cutting anyone's pay and they were not removing any employees. They would be gaining employees, that was what they were hoping to do. In order for them to accomplish this goal, they had to figure out a way to get there and this was part of that process.

Whether it was needed or not, they could create a more streamlined effect to provide services for everyone. He did not care about billboards or Facebook posts. The goal was to expand services to better serve the community. The appointments to the board would be based on what the state required them to do. Instead of having two boards serving two purposes, they would have one board serving two purposes.

Commissioner Smith stated he had a conversation with the DSS Director and his concern was about who would lose their job, would there be one director over both agencies and how would it be restructured? He relayed to the DSS Director that there were no plans to take the DSS Director or the Health Director out of the picture. There would be another director sitting between them in the county.

They would be able to be more flexible with salaries. There were many job openings at DSS they could not fill because of the salary scale was so low because they had to follow the state scale. It was not just large counties that consolidated. Swain and Haywood had consolidated and Macon County was in discussions

Chairman Letson stated they did not have a list of people willing to serve on boards. Currently, they were having to fill double spots.

Commissioner Jones stated there were different professional requirements for both boards. He asked Mr. Adams if the Commissioners controlled the pay scale for DSS?

Mr. Adams stated they did have control as it fell within the State Human Resources Act. There were required allocations between positions that did not allow the county to target certain areas without impacting the entire system. The county controlled the pay scale as long as it fit within the state's rules.

There was an option to stay "as is", but change certain portions where they would exclude themselves under the State Human Resources Act as long as it was "substantially equivalent". It was not as simple as pulling themselves out of the state pay scale, they would have to go through a process. The State Human Resources Act went above the required Federal Standards.

The county had to meet those Federal Standards because they received a significant amount of money from the federal government regarding Social Services and the Health Department. There would have to be a review of the county's personnel policy to make sure they complied with the Federal Standards. The State Human Resources Act had additional requirements.

He shared a UNC School of Government Social Services Bulletin: Personnel Decisions for North Carolina's Consolidated Human Services Agencies. He noted the following sections:

- (b) The federal merit personnel system standards require the following:
- Recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment.
 - Providing equitable and adequate compensation.
 - Training employees, as needed, to assure high quality performance.
 - Retaining employees on the basis of the adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected.
 - Assuring fair treatment of applicants and employees in all aspects of personnel administration without regard to race, color, religion, sex (including pregnancy and gender identity), national origin, age (as defined by the Age Discrimination in Employment Act of 1967, as amended), disability, genetic information (including family medical history), marital status, political affiliation, sexual orientation, status as parent, labor organization affiliation or nonaffiliation in accordance with [5 U.S.C. ch. 71], or any other non-merit-based factor, or retaliation for exercising rights with respect to the categories enumerated above, where retaliation rights are available, and with proper regard for their privacy and constitutional rights as citizens. This "fair treatment" principle includes compliance with the Federal equal employment opportunity and nondiscrimination laws.
 - Assuring that employees are protected against coercion for partisan political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the result of an election or a nomination for office.

Commissioner Jones stated if they chose the option for both directors to keep their jobs with the same pay and hired a CHS Director, have they not created another level of cost? If that was the case, he would rather see those funds go to the workers as opposed to another layer of upper echelon government.

Commissioner Smith stated he understood they would not have to hire another director. Both current directors could report to the County Manager.

Mr. Adams stated they could ask the Attorney to research this. His job, as the County Manager, was to follow through with the desire of the Board at the time. In 2018, the Board attempted to consolidate and chose Option 2. In this option, they had to take recommendations from the two existing boards for the CHS Director. At that time, the board consisted mainly of the existing Health Board and DSS Board. The intention was to have a CHS Director to oversee the Health Director and the DSS Director. A job description and costs were created.

The newly formed CHSSA Board would not move forward with the hiring process of a CHS Director. At that time, he informed the Board they were not able to move forward with the process. It was known that all wanted to delay because an election was coming up. All was delayed until the election when the majority of the Board changed and it then switched back.

Commissioner Jones stated he was clear on his position that he was in favor of Option 4. From a public standpoint, what option was the Board looking at so the public could have time to research the options prior to the public hearing.

Commissioner Smith stated it was not his intent for anyone to lose their job and it never had been. He thought they needed the flexibility with salaries to put people in positions they could not fill. They were losing people to other counties that could manipulate their salaries.

Commissioner Jones stated a one penny tax increase was equivalent to about \$1.1 million. A potential tax increase could cover these needs and provide the best care and services they could.

Commissioner Smith stated he thought most people would be okay with that because they were supporting children and the public in general. He felt they could provide better services by paying personnel better or by increasing the number of personnel so they were not burning them out.

Commissioner Stribling stated ½ a penny would be a good chunk of change to use towards this.

General discussions were held.

Ms. Bechtel stated the Board had a great discussion. There were so many issues. If the Board wanted her to do more legal research on any particular option, she would do so when they were ready.

Chairman Letson asked if an increase in the millage rate could be directed at a location without affecting others?

Mr. Adams stated they could increase the millage rate to increase revenues, but if they were going to raise salaries, they would just raise salaries and then raise revenues to help offset that. He did not think they could take ½ cent and say it was permanently dedicated to salaries. They could not limit future Boards.

Ms. Bechtel stated she agreed with Mr. Adams.

General discussions were held.

Mr. Adams noted another section of the UNC School of Government Social Services Bulletin: Personnel Decisions for North Carolina's Consolidated Human Services Agencies.

(c) What is a "Substantially Equivalent" County Personnel System? Counties can remove social services and public health employees from certain aspects of SHRA coverage without creating a CHSA. This is accomplished by applying for and receiving a "substantially equivalent" exemption from the Office of State Human Resources (OSHR). The SHRA allows the State Human Resources Commission (acting through OSHR) to determine whether particular elements of a county's personnel management system are "substantially equivalent" to the SHRA. Counties can petition for this designation in five aspects of personnel management:

- Recruitment, Selection, and Advancement;
- (ii) Classification/Compensation;
- (iii) Training; (iv) Employee Relations; and
- (v) Political Activity.³¹ If the county's petition is approved, the county employees who are subject to the SHRA (like public health and social services employees) become subject to the county personnel system and are exempt from the SHRA solely with respect to those approved aspects of personnel management.

Any North Carolina county can apply for a substantially equivalent personnel system exemption, regardless of whether it has created a CHSA. However, unlike the personnel option available to counties with a CHSA under G.S. 153A-77(d), the substantially equivalent designation under G.S. 126-11 is not a blanket exemption from all aspects of the SHRA.

General discussions were held.

Commissioner Smith stated his position was always Option 3. It seemed like the most sensible solution.

Chairman Letson stated he was left with Options 3 and 2. He felt they would be taking the two boards and creating a new platform to reach the Commissioners more directly, so if there was a place where they saw a direct need, the Commissioners could facilitate that. He reiterated that no one would be losing their jobs. They were trying to get more resources for these departments and employees.

Informational item.

(5) LICENSE PLATE AGENCY: Mr. Adams stated for the Board's information, the License Plate Agency in Sylva was up for bid. He had discussed this with Ms. Henry to get the word out that this opportunity was available for private businesses. Even though there may be multiple people interested, they would have to be vetted and go through a process.

He also had conversations with Tabitha Ashe, Tax Administrator and staff was doing research to see what it would take for the county to provide this service. If it did not work out for the private market, they were preparing for a conversation with the Board at a later date, if there was no interest or no one qualified to provide the service.

Informational item.

Chairman Letson recognized members the Leadership of Cashiers group in attendance. They had toured the facilities and meet with the Sheriff's Office that day.

The Board took at ten-minute break.

Chairman Letson called the meeting back to order.

(6) CLOSED SESSION:

Motion: Commissioner Smith moved that the Board go into closed session pursuant to G.S.143-318.11(a)(3) Legal and G.S.143-318.11(a)(6) Personnel. Commissioner Jones seconded the Motion. Motion carried.

Chairman Letson called the regular meeting back to order and stated no action was taken in closed session.

There being no further business, Commissioner Stribling moved to adjourn the meeting. Commissioner Smith seconded the Motion. Motion carried and the meeting adjourned at 3:05 p.m.

Attest:

Approved:

Angela M. Winchester, Clerk to Board

Mark A. Letson, Chairman