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Posted By: Evelyn Baker
Witness: _____

**MINUTES OF THE REGULAR MEETING
OF THE JACKSON COUNTY
BOARD OF COMMISSIONERS
HELD ON
APRIL 18, 2005**

The Jackson County Board of Commissioners met in Regular Session on Monday, April 18, 2005, at 6:30 p.m., 401 Grindstaff Cove Road, Room A201, Sylva, North Carolina.

Present: Brian T. McMahan, Chairman
Roberta Crawford, Vice Chair
Joe Cowan, Commissioner
Eddie Madden, Commissioner
Conrad Burrell, Commissioner
Kenneth L. Westmoreland, County Manager
W. Paul Holt, Jr., County Attorney
Evelyn B. Baker, Clerk to the Board

Chairman McMahan called the meeting to order.

AGENDA: Chairman McMahan amended the Agenda by adding a “Proclamation Honoring WCU Chancellor Bardo” and Commissioner Cowan added “Safety”. Commissioner Crawford moved to approve the amended Agenda. Commissioner Madden seconded the Motion. Motion carried by unanimous vote.

MINUTES: Commissioner Cowan moved to approve Minutes of the Public Hearing of April 4, 2005 and Regular Meeting of April 4, 2005. Commissioner Madden seconded the Motion. Motion carried by unanimous vote.

INFORMAL COMMENTS BY THE PUBLIC:

- (a) Louis Spagna urged the Board to adopt a Shooting Range Moratorium and direct the Planning Board to draft a proposed ordinance regulating shooting ranges in Jackson County. The ordinance should be adopted prior to expiration of the Moratorium.
- (b) Cherry Martin of Tilley Creek Road stated that she home schools her daughter and the noise from a shooting range would adversely affect them. She stated she was also concerned about resulting lead pollution in Tilley Creek.
- (c) Catherine Baker of Caney Fork stated that her research reveals that once a shooting range is implemented it must remain a shooting range until the property is cleaned up by the EPA. Her opinion was that Smoke Rise Field Club cannot develop the area as a housing complex unless its shooting range is cleaned up. Her research further revealed that the people who usually operate shooting ranges do not routinely clean up the site when they leave and the county could possibly be required to pay for the clean up. Also, according to her research, lead poisoning is connected to criminal/rage behavior and lead poisoning affects children’s brains.

(d) Randy Deitz of Sylva stated that it appears that some people appear to be opposed to any and everything and the Board should listen to the majority of citizens in the county.

(e) Terry Michelsen stated that the proposed shooting range site is located between two heavily developed communities. An outdoor range has the potential of causing accidental death. She stated she is not opposed to change if it is for the public good. The noise from a shooting range will be detrimental to surrounding homes.

(f) Vera Guise of Cullowhee stated that she continues to be alarmed about another shooting range on Tilley Creek. The other range at Moss Gap operates for an hour or so in the late afternoons and for a short period of time on Saturdays. A shooting range that operates eight hours per day, seven days per week is unacceptable.

(g) T. J. Walker of Dillsboro stated that Duke Energy should reassess the need for removing the Dillsboro Dam. The dam not only has historical value, but also recreational and economic benefits.

(1) FINANCE & TAX COLLECTOR REPORTS FOR MARCH 2005 and BUDGET AMENDMENT:

<u>General Fund Revenues Collected to Date</u>	<u>\$ 30,574,441.68</u>
<u>General Fund Expenditures to Date</u>	<u>\$ 27,475,079.07</u>
<u>Ad Valorem Tax Collected</u>	<u>\$ 18,532,542.24</u>
<u>Motor Vehicle Tax Collected</u>	<u>\$ 708,222.34</u>
<u>Prior Year Tax Collected</u>	<u>\$ 635,276.91</u>
<u>Sales & Use Tax for Jan 2005</u>	<u>\$ 770,180.18</u>
<u>FEMA Reimbursement, Hurricane Frances&Ivan</u>	<u>\$ 190,773.00</u>
<u>Landfill Disposal Fees Collected</u>	<u>\$ 1,066,370.79</u>
<u>Contingency Balance</u>	<u>\$ 41,205.00</u>
<u>Budget Amendment (General Fund)</u>	<u>\$ 1,251,250.00</u>

Commissioner Cowan moved to approve the Finance & Tax Collector's Report for March 2005 and the Budget Amendment. Commissioner Madden seconded the Motion. Motion carried by unanimous vote.

(2) CHAIRMAN'S REPORT: None

(4) COMMISSIONERS REPORT: Commissioner Cowan reported that at the request of certain residents, he has attended three meetings since last Friday concerning the proposed shooting range on Tilley Creek. There is still a lot of interest in the adoption of a moratorium. Commissioner Burrell stated that he has not visited the proposed shooting range site or researched the issue. He stated he wants to make sure that Tilley Creek residents are protected environmentally as well as the entire county. He stated that since there are several springs and streams on the site, an environmental assessment should be made concerning lead contamination. He suggested that the planning board make an assessment and that the Board review that assessment prior to making any decision.

(5) COUNTY MANAGER'S REPORT: None.

(6) **SAFETY**: Commissioner Cowan stated he was shown a petition containing more than 1,000 names opposing a shooting range. He referred to a letter dated March 21, 2005 from W. Barry Moore, President and Secretary of Smoke Rise Field Club, to the Jackson County Planning Board, which stated in part:

“The Smoke Rise Field Club, Inc. does not plan to close on the purchase of this property on Tilley Creek for approximately ninety days from today’s date. Under no circumstances will our organization close in less than seventy-five days from today’s date. We will not use the property for any purpose whatsoever until such time as the transaction is complete. We reserve the right to have the property surveyed and to inspect the property for the use intended, but we will not use the property for the purpose of discharging any type of firearm during the seventy-five day period. We are in favor of a shooting range ordinance like the one that is being discussed based on national standards”.

Commissioner Cowan stated that an ordinance is a step beyond a moratorium and the Board should direct the planning board to draft an ordinance. The ordinance should address the control of noise, all safety issues, environmental issues, and since lead is a primary concern mandate that only steel shots can be used. Further, he recommended that the Environmental Protection Agency be requested to make an assessment of the site and advise the Board if it is possible for a shooting range to operate safely and keep the noise level under certain number of decibels. That the shooting range meet all requirements of the EPA, especially Section 401, and provide for penalties.

MOTION: Commissioner Cowan moved that the planning board be directed to draft an ordinance pertaining to the regulation exclusively of shooting ranges, proposed and future, to include all measures relating to public safety, health and environmental protection of the properties and residences surrounding such shooting ranges including, but not limited to:

(a) noise levels; (b) environmental issues; (c) public safety issues; (d) require conformance with all North Carolina state and federal regulations pertaining to air, soil and water quality.

Further, that: (e) the Jackson County Board of Commissioners request that appropriate state and federal environmental agencies conduct an evaluation of the proposed shooting range site to determine suitability and feasibility of the site for a shooting range; (f) it is expressly intended that this ordinance shall in no way be construed to affect or be restrictive on U. S. Constitutional Second Amendment rights; (g) this ordinance shall not apply to licensed hunters and/or shooters to use their guns in a customary manner so long as they comply with state and federal laws.

Commissioner Burrell seconded the Motion.

Commissioner Madden stated that the Smoke Rise Field Club members have cooperated with this Board. He stated that this county is important to him and citizens lives are going to be impacted based upon this Board’s decisions. He stated he could not support the original proposed moratorium because it contained

language that could potentially have been misinterpreted and affected an individual's right to bear arms. An ordinance should not in any manner regulate hunters and gun owners as well as an individual's right to bear arms.

Motion carried by a vote of 3 – 2 (Chairman McMahan and Commissioner Crawford voted “nay”).

(7) NCDOT ENHANCEMENT CONTRACT & RESOLUTION: David Bates, Greenway Coordinator, submitted a written report which stated that the contract is for the first grant funded section of the Scotts Creek Greenway and walking trail. The Greenway Commission plans to construct a walking trail and sidewalk that will connect Mark Watson Park and Poteet Park in Sylva. The budget for the project is \$78,704 and consists of 80% federal funding (\$62,963) and a 20% local funding (\$15,741). Commissioner Cowan moved to approve the contract and resolution. Commissioner Madden seconded the Motion. Motion carried by unanimous vote.

(8) PUBLIC HOUSING AGENCY: Commissioner Madden moved to approve the Public Housing Agency's administrative plan as outlined by John Ashe, Housing Director. Commissioner Crawford seconded the Motion. Motion carried by unanimous vote.

(9) WADE HAMPTON GOLF CLUB, INC.: Commissioner Cowan moved to permit Wade Hampton Golf Club, Inc. to exhibit a fireworks display at the Wade Hampton Golf Club on July 4, 2005. Commissioner Burrell seconded the Motion. Motion carried by unanimous vote.

(10) RURAL OPERATING & ASSISTANCE PROGRAM: A Public Hearing was held on April 18, 2005 at 6:00 p.m. and no objections were raised. Commissioner Burrell moved to approve the application for the Rural Operating and Assistance Program funding as outlined by Chuck Norris, Transit Director. Commissioner Cowan seconded the Motion. Motion carried by unanimous vote.

(11) BENEFICIAL GAS PROJECT – DILLSBORO LANDFILL: Mr. Westmoreland recommended Odell Thompson as the architect for the Master Plan for the Dillsboro Landfill Beneficial Gas Project. Funds to pay for his services will be paid from the Golden Leaf Foundation grant. Commissioner Burrell moved that Odell Thompson be authorized to prepare a Master Plan for the Dillsboro Landfill Beneficial Gas Project. Commissioner Madden seconded the Motion. Motion carried by unanimous vote.

(12) RESOLUTION – NC PUBLIC LIBRARY DIRECTOR'S ASSOC.
(R05-08): Commissioner Cowan moved to adopt the Resolution. Commissioner Crawford seconded the Motion. Motion carried by unanimous vote.

(13) TRANSPORTATION BOARD APPOINTMENT: Commissioner Crawford moved to appoint Wade Wilson of District 1 to a three-year term on the Transportation Board. Commissioner Cowan seconded the Motion. Motion carried by unanimous vote.

(14) CEMETERY BOARD APPOINTMENTS: Commissioner Madden recommended Marion Jones, Joe Rhinehart was recommended as the representative from the Historical Society, and James Monteith was recommended as the representative from the Genealogy Society. Commissioner Cowan moved to appoint Marion Jones, Joe Rhinehart and David Monteith to two-year terms on the Jackson County Cemetery Board. Commissioner Madden seconded the Motion. Motion carried by unanimous vote.

(15) BALSAMWEST FIBERNET, LLC, EASEMENT AGREEMENT: Mr. Westmoreland explained that the main branch library in Sylva has entered into an agreement with BalsamWest Fibernet for internet connecting services. Because of the time factor, he authorized the utility easement on April 8, 2005. He requested the Board to ratify the Easement Agreement he executed on behalf of the county. Commissioner Madden moved to ratify the Easement Agreement. Commissioner Burrell seconded the Motion. Motion carried by unanimous vote.

(16) PROCLAMATION – COUNTY EXTENSION & COMMUNITY ASSOCIATION WEEK: Commissioner Burrell moved to proclaim the week of April 24-30, 2005 as Jackson County Extension & Community Association Week. Commissioner Crawford seconded the Motion. Motion carried by unanimous vote.

(17) PROCLAMATION – OLDER AMERICANS MONTH: Commissioner Cowan moved to proclaim May 2005 as Older Americans Month. Commissioner Burrell seconded the Motion. Motion carried by unanimous vote.

(18) PROCLAMATION – HONORING WCU CHANCELLOR JOHN W. BARDO: Commissioner Cowan moved to adopt a Proclamation commending Dr. John W. Bardo for his ten years of service as Chancellor of Western Carolina University. Commissioner Burrell seconded the Motion. Motion carried by unanimous vote.

Commissioner Burrell moved that the Board go into Closed Session pursuant to G. S. 143-318.11(a)(3) Legal. Commissioner Madden seconded the Motion. Motion carried by unanimous vote.

Chairman McMahan called the Open Session back to order and reported no action or votes were taken in Closed Session.

There being no further business, Commissioner Burrell moved that the meeting be adjourned. Commissioner Madden seconded the Motion. Motion carried and the meeting adjourned at 9:55 p.m.

Attested By:

Approved:

Evelyn B. Baker
Clerk to the Board

Brian Thomas McMahan, Chairman

