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Time Posted: _____
Posted By: Evelyn Baker
Witnessed By: _____

**MINUTES OF A REGULAR MEETING
OF THE JACKSON COUNTY
BOARD OF COMMISSIONERS
HELD ON
JUNE 1, 2009**

The Jackson County Board of Commissioners met in a Regular Meeting on June 1, 2009 at 6:30 p.m., 401 Grindstaff Cove Road, Room A201, Sylva, North Carolina.

Present: Brian T. McMahan, Chairman
Tom Massie, Vice Chair
Joe Cowan, Commissioner
William Shelton, Commissioner
Mark Jones, Commissioner

Ken Westmoreland, County Manager
W. Paul Holt, Jr., County Attorney
Evelyn B. Baker, Clerk to Board

Chairman McMahan called the meeting to order.

AGENDA: Chairman McMahan added Duke/FERC Dillsboro Dam Update. Commissioner Jones moved to approve the amended Agenda. Commissioner Cowan seconded the Motion. Motion carried.

MINUTES: Commissioner Massie moved to approve the Minutes of the two Public Hearings of May 18, 2009. Commissioner Shelton seconded the Motion. Motion carried.

Commissioner Massie requested the last sentence of paragraph (3) of the Minutes of the Regular Meeting of May 18, 2009 be corrected to read as follows: “*Two plans were presented*”. Commissioner Massie moved to approve the amended Minutes. Commissioner Jones seconded the Motion. Motion carried.

Commissioner Massie requested the third sentence of the first paragraph on page 3 of the Minutes of the Special Meeting of May 22, 2009 be corrected to read as follows: “*In reality, some county officials started talking with the principals of Stonewall Packaging about locating in the county and renovating an existing facility over two years ago*”. Commissioner Massie moved to approve the amended Minutes. Commissioner Shelton seconded the Motion. Motion carried.

INFORMAL COMMENTS BY THE PUBLIC:

(a) Marie Leatherwood of Sylva stated that the letters to her from individual Commissioners addressing contact with D. A. Bonfoey about ongoing issues with the EDC/JDC are, in her opinion, inaccurate.

(b) Carol Adams of Glenville and on behalf of the Friends of Lake Glenville Board stated that the county has their continued support in the Duke relicensing intervention. The county’s intervention seeking gains for citizens and communities should be appreciated by everyone throughout the county

(c) Timm Muth, Green Energy Park Director, stated the Dillsboro Dam presents a unique opportunity because producing electricity with water is better for the environment than nuclear or coal fired power plants. At its current generating capacity, the dam could create almost all of the electricity that the Town of Dillsboro would need. Removing the dam will remove the overall potential for creating green power.

(d) Teresa Dowd of Dillsboro and owner of the West Carolina Internet Café stated the Dillsboro Dam creates interest and is economically beneficial to the county. She stated the Town of Dillsboro Board fully supports efforts to preserve the dam and the proposed park.

(e) After Mr. Holt advised and warned Mr. Alexander and Attorney McIntosh about addressing his clients, Fred Alexander of Duke Energy stated he would address his remarks to Mr. Holt. He stated there is no legal basis for condemnation of Dillsboro Dam

(f) Emma Wertemberger of Dillsboro stated she supports the Dillsboro Park concept but has a few concerns about the design.

(g) Jim McCarthy of Greens Creek stated the Jackson County Citizens Action Group took an informal survey around the county and found no one who wanted to see the dam removed. There is nothing unsafe about the low level dam.

(h) Starlotte Deitz of Dillsboro stated she wanted the dam saved and if it is removed the county has lost a valuable piece of history. She presented petitions in support of keeping the dam.

(1) COMMISSIONERS REPORTS: Commissioner Massie reported that he attended the federal mediation in Washington, D. C. on May 27 along with attorneys for Friends of Lake Glenville, Duke Energy, FERC, the Dept. of Justice representing U. S. Fish & Wildlife, and Paul Nolan who represents the county. He also attended the Memorial Day ceremony on May 30th.

(2) COUNTY MANAGER'S REPORT: Mr. Westmoreland reported that he had received notice today that FEMA and CDBG stimulus funds will be available in two areas. FEMA is funding projects that are "shovel ready" for fire stations. Unfortunately a bid had been awarded and financing agreements are already in place for the Sylva Fire Station expansion. CDBG will have some water and sewer funds available and the county may be interested in applying for funds to complete the balance of the Whittier Sanitary Sewer Project.

(3) FINANCING AGREEMENT: Darlene Fox, Finance Director, presented a Bank of America 15-year term financing agreement in the amount of \$10,295,446 with a fixed interest rate of 4.63% per annum. The application will be considered by the Local Government Commission on July 14, 2009. She recommended approval of the agreement contingent upon approval of LGC. A public hearing was held on June 1 at 6:00 p.m. and no objections or public comments were made.

MOTION: *Commissioner Shelton moved to approve the financing agreement contingent upon approval by the Local Government Commission. Commissioner Massie seconded the Motion. Motion carried by unanimous vote.*

(4) RECREATION & PARKS DEPT. REQUEST FOR FIREWORKS: Jeff Carpenter, Recreation Director, requested permission to display fireworks at the Cashiers Community Park on July 4 using the professional firm of Melrose Pyrotechnics. Due to the new library construction at the old courthouse, fireworks will not be displayed in the Sylva area because he was unable to find an alternate site.

MOTION: *Commissioner Jones moved to approve the request. Commissioner Cowan seconded the Motion. Motion carried by unanimous vote.*

(5) **TWSA -NORTH RIVER ROAD R/W ISSUES**: Mr. Westmoreland presented a letter from TWSA's attorney requesting that the county consider modifying some of the exceptions in a deed from the county to TWSA for the sewer plant. He stated that the improvements to the entrance road may adequately resolve all issues. Mr. Holt will review the request. No action requested at this time.

(6) **HEAVY EQUIPMENT RENTAL TAX**: N.C.G.S. 105-275(42a) states short-term lease and rental of heavy equipment is no longer classified as taxable personal property. N. C. G. S. 153A-156.1 authorizes counties to impose, by resolution, a gross receipts tax for short-term lease and heavy equipment rental at the rate of 1.2%. Bobby McMahan, Tax Assessor and the NC Dept of Revenue recommend adoption of a resolution to assist counties with lost revenue. Mr. Westmoreland will ascertain the number of heavy equipment rental companies in the county. A resolution will be considered at the next meeting.

(7) **BUDGET PUBLIC HEARING**: A public hearing on the proposed FY2009-10 budget was scheduled on June 15, 2009 at 6:00 p.m.

(8) **LIBRARY – PROJECT MANAGER**: McMillan Smith Architects and Construction Control Corp. submitted proposals. Carry over.

(9) **441 CORRIDOR COMMERCIAL DEVELOPMENT ORDINANCE**: A public hearing was scheduled on July 6, 2009 at 6:30 p.m. Due to two public hearings on July 6, the only regular meeting will be July 20.

(10) **AGRICULTURAL ADVISORY BOARD APPOINTMENTS**: Kent Cochran and Bentley Robison have agreed to continue to serve if reappointed.

MOTION: *Commissioner Massie moved to reappoint Kent Cochran and Bentley Robison to 3-year terms on the Agricultural Advisory Board. Commissioner Shelton seconded the Motion. Motion carried by unanimous vote.*

(11) **HISTORIC PRESERVATION COMMISSION APPOINTMENTS**: An appointment from each district should be made in addition to two at-large appointments. Carry over.

CLOSED SESSION: Chairman McMahan stated there was a need for a closed session pursuant to G. S. 143-318.11(a)(3) Legal (Duke/FERC).

Motion: *Commissioner Jones moved that the Board go into closed session. Commissioner Shelton seconded the Motion. Motion carried.*

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

(12) DUKE/FERC - DILLSBORO DAM: Chairman McMahan stated the Duke/FERC relicensing appeal was discussed in closed session including a conference call with Attorney Paul Nolan. Mr. Nolan indicated that Duke, through the mediation proceedings, intends to make a settlement proposal on June 2. Therefore, the Board of Commissioners will give Duke until 5:00 p.m. on June 5, 2009 to submit a proposal to the county.

At 9:00 pm, Chairman McMahan recessed the meeting until June 8 at 4:00 p.m.

Attest:

Approved:

Evelyn B. Baker, Clerk to Board

Brian Thomas McMahan, Chairman