

**MINUTES OF A  
WORK SESSION  
OF THE JACKSON COUNTY  
BOARD OF COMMISSIONERS  
HELD ON  
NOVEMBER 15, 2016**

The Jackson County Board of Commissioners met in a Work Session on November 15, 2016, 10:00 a.m., Justice & Administration Building, Room A227, 401 Grindstaff Cove Road, Sylva, North Carolina.

Present: Brian McMahan, Chairman  
Mark Jones, Vice Chair  
Charles Elders, Commissioner  
Vicki Greene, Commissioner  
Boyce Deitz, Commissioner

Don Adams, County Manager  
Heather C. Baker, County Attorney  
Angela M. Winchester, Clerk to Board

Chairman McMahan called the meeting to order.

**(1) SENIOR PLANNER POSITION:** Michael Poston, Planning Director and Danielle Wittekind, Human Resources Director, presented: Land Use Administrator Position – Planning Department:

**(a) Background:** During the summer of 2015, the county contracted with Benchmark Planning, Inc. to conduct a performance audit of the Permitting and Code Enforcement and Planning Departments. The audit report recommended that the Land Use Administrator position be reclassified to a Senior Planner position in order to better serve the county in its planning needs.

Currently the Planning Department was working on its Comprehensive Plan and would soon be starting on the Unified Development Ordinance that would require significant time and effort of the Planning Department staff members. The Land Use Administrator plays a vital role in both projects.

**(b) Modification of Duties and Responsibilities:** Recently the Planning Director and Human Resources Director reviewed the job description of the Land Use Administrator position and identified duties and responsibilities the position performed for the Planning Department. Not included in the position were site design and acting supervisor of the Planning Department in the absence of the Planning Director. Additionally, the Land Use Administrator was the individual who calculated slope under the Mountain and Hillside Development Ordinance and trained other Planning Department staff to accurately calculate slope.

**(c) Senior Planner Salary Information:** In review of Planning Departments across the state, there were 31 counties that employ a Senior Planner, as reported in the UNC School of Government’s 2015 Salary Survey. Of these counties, the statewide average for the position ranges from \$47,563-\$75,077, with an average salary of \$54,455.

**(d) Position Recommendation:** Upon review of the information included in the Benchmark Planning, Inc. Performance Audit Report and the duties and conditions of the Land Use Administrator, it was recommended to reclassify the position to a Senior Planner and assign to Grade 26.

<b>Current Position Title</b>	<b>Current Grade</b>	<b>Current Range</b>
Land Use Administrator	Grade 24	\$39,310.99-77,076.12
<b>Proposed Position Title</b>	<b>Proposed Grade</b>	<b>Proposed Range</b>
Senior Planner	Grade 26	\$43,340.37-84,976.45

Commissioner Elders requested that the new Commissioners-elect give their recommendations. Ron Mau stated it seemed to him that someone was doing a job, but their job description did not match and this would mean there would no longer be a Land Use Administrator.

Mickey Luker stated he had read the plan and that he personally was not an advocate of changing midstream. He would prefer to wait until the new budget year to make concessions.

Commissioner Elders stated that he agreed with Commissioner-elect Luker and he thought they should study the issue more and take it up at an appropriate time.

**Majority:** *Place this item on the Thursday agenda for consideration by the Board.*

**(2) PHYSICIAN EXTENDER II POSITION:** Shelley Carraway, Health Director and Danielle Wittekind, Human Resources Director, presented: Physician Extender II Position - Department of Public Health:

**(a) Background:** In July, 2016, the Department of Public Health had a mid-level provider retire, leaving two mid-level providers. Since then, the two remaining providers have given notice to leave employment with the county. One resigned her position, departing mid-November and the other was retiring at the end of December. The Department of Public Health had been actively recruiting for candidates to fill the positions. The Physician Extender II position was originally advertised in June, with very limited response from qualified candidates. One candidate withdrew her application because they accepted an offer of \$125,000 in the community. There was concern that the starting salary for the position was less than market value.

**(b) Mid-level Provider Salary Information:** To assess area market conditions, starting salary information was requested from area county governments and hospitals for their mid-level positions. The Western North Carolina average salary was \$87,370, with a range of \$72,465-\$106,679.

**(c) Position Recommendation:** Upon review of the information collected from area local governments, area hospitals human resources professionals, online salary databases and reviewing available mid-level provider employment opportunities in the area, it was recommended to reclassify the Physician Extender II position to Grade 39 in order to recruit qualified candidates. The minimum of the salary grade was equivalent to market offerings for new mid-level providers who graduated from an accredited program and had minimal experience.

<b><u>Current Position Title</u></b>	<b><u>Current Grade</u></b>	<b><u>Current Range</u></b>
Physician Extender II	Grade 32	\$58,080-113,876
<b><u>Proposed Position Title</u></b>	<b><u>Proposed Grade</u></b>	<b><u>Proposed Range</u></b>
Physician Extender II	Grade 39	\$81,724-160,235

**Consensus:** *Place this item on the Thursday agenda for consideration by the Board.*

**(3) FAIR LABOR STANDARDS ACT:** Danielle Wittekind, Human Resources Director, presented:

**(a) FLSA Final Rule:** Effective December 1, 2016:

- Raises minimum salary necessary for an employee to be exempt from overtime from the current \$455/week (\$23,660 annually) to \$913/week (\$47,476 annually);
- Raises the minimum salary necessary for an employee to be exempt from overtime as a highly-compensated employee from \$100,000 annually to \$134,004 annually;
- Provides for automatic updating of the salary thresholds every three years;
- Allows employers to include nondiscretionary bonuses in an amount up to 10% of the minimum salary level;
- Makes no changes to the duties test; and
- Makes no changes to any of the other rules regarding compensable time and overtime.

<b>Current</b>	<b>Dec. 1, 2016</b>
\$455/week	\$913/week
\$23,660/year	\$47,476/year

**(b) Overtime Provisions that Remain Unchanged:**

- Public employers may continue to use compensatory time-off or “comp time” in lieu of cash overtime.
- Public employers may still use the 28-day work cycle of the 207(k) exempt from paying overtime to law enforcement officers and firefighters.
- The fluctuating workweek will continue to be available as a method of paying overtime to those employees who sometimes work fewer than 40 hours per week and sometimes work more than 40 hours per week.
- Rules governing what time was compensable and what was not, remain the same.

**(c) Position Classification Review:**

- All employee and respective salaries reviewed:
  - Those below new threshold \$47,476 – non-exempt automatically.
  - Those above new threshold \$47,476 – HR to review with Department Heads against FLSA duties tests (executive, administrative, professional) and determine whether or not exempt.
- Identified misclassified positions and created a plan to correct misclassified positions.
- Identified positions/employees whose exemption status was changing and identify classifications containing both exempt and non-exempt employees for Board review.
- Developed communication to Department Heads and staff who are affected by the FLSA changes to include how to properly account for time/comp time.

**(d) Misclassified Positions:**

- In a review of all positions within the county, some positions were misclassified as exempt when they did not meet a duties test and should have been classified as non-exempt.
- Corrective Action: Review timesheets for the last two years and correctly calculate compensatory time at a rate of 1 ½ hour of comp time for each hour worked over 40 hours in a work week. Under FLSA, the DOL enforces a two year statute of limitation thus the look back period to correct the misclassification was two years.

**(e) Misclassified Positions as exempt include:**

- Director of GIS
- Chief Code Inspector
- Land Development Administrator
- Green Energy Project Manager
- District Manager –Soil Conservationist
- EH Program Coordinator
- EH Program Specialist
- EH Specialist
- Nutritionist II
- Social Worker II (Health)
- Medical Lab Technician II
- Medical Lab Assistant III
- Practical Nurse II
- Public Health Educator I
- Animal Control Officer Lead
- Animal Control Officer I
- Veteran’s Service Officer

(f) Misclassified Positions as non-exempt include:

- Active Routes to School Coordinator – meets the requirement of professional exempt.

(g) Exemption Status Changes: Positions below are moving from exempt to non-exempt based on not meeting the salary threshold portion of the duties test (executive, administrative, or professional):

- Assistant Director: Housekeeping/Solid Waste
- Business Officer I (Health)
- Public Health Nurse II
- Admin. Asst. II to DSS Director
- Processing Unit Supervisor V (DSS)
- Income Maintenance Supervisor II
- Programming Supervisor
- Andrews Park Caretaker
- Outdoor Recreation Manager
- Site Manager

(h) Classification with Both Exempt and Non-Exempt:

- Public Health Nurse II (2 Exempt, 2 Non-Exempt)
- Income Maintenance Supervisor II (1 Exempt, 1 Non-Exempt)
- Need to decide how to treat these classifications:
  - Either do nothing and have some individuals exempt and others non-exempt while serving in the same capacity; or
  - Treat the classification as non-exempt until all individuals are beyond the minimum salary threshold for exemption.

(i) Things to Remember Under FLSA:

- All employees must be paid for hours worked.
- FLSA requires non-exempt employees be paid overtime when the employee works over 40 hours in a work week. FLSA does not require exempt employees to be provided overtime payments or accrual of comp time.
- Comp time cannot be earned by part-time employees until they have worked over 40 hours in one week; part-time employees must be paid for all hours worked up to 40 hours, then comp time can be earned in lieu of paid overtime –this will have budgetary impacts when permanent part-time employees work over their budgeted FTE.
- FLSA requires comp time to be paid out at the time of separation for non-exempt employees.
- FLSA provides a non-exempt employee can accrue up to 240 hours of comp time, any comp time in excess of 240 hours must be paid at an overtime premium (Emergency Management and Public Safety can earn up to 480 hours of comp time).

***Consensus:*** Concerning (h) Classification with both exempt and non-exempt (above), treat the classifications as non-exempt until all individuals are beyond the minimum salary threshold for exemption.

(4) **FIRES IN THE COUNTY:** Commissioner Greene inquired about further assistance to the fire departments concerning the fires around the county.

Mr. Adams stated that the last report he had received from Emergency Management was that all of the fires in the county were contained and emergency operations were demobilizing that morning. They were very appreciative of all of the food and water donations that had been made for the firefighters. Left over items would be donated to The Community Table and the fire departments.

Ms. Baker requested that everyone spread the word about the Open Burn Prohibition, the State of Emergency Declaration and the Water Conservation Request from TWSA. All three items were posted on the county web page.

Ms. Carraway stated they would be receiving a shipment of 3,500 masks that they would be distributing for free. She was concerned about individuals with compromised situations and stated they should still remain indoors. They would be distributing the masks along with educational materials.

There being no further business, Commissioner Elders moved to adjourn the meeting. Commissioner Greene seconded the Motion. Motion carried and the meeting adjourned at 10:58 a.m.

Attest:

Approved:

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Angela M. Winchester, Clerk to Board

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Brian Thomas McMahan, Chairman