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Posted By: Evelyn Baker
Witness: _____

**MINUTES OF THE REGULAR MEETING
OF THE JACKSON COUNTY
BOARD OF COMMISSIONERS
HELD ON
MAY 16, 2005**

The Jackson County Board of Commissioners met in Regular Session on Monday, May 16, 2005, at 6:00 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 Jackson Dev. Corp. Foreclosure, USDA Rural Dev. Agreement, FY2005-06 Budget Ordinance, and Resolution-USDA Rural Dev. Grant. Commissioner Crawford moved to approve the amended Agenda. Commissioner Burrell seconded the Motion. Motion carried.

MINUTES: Commissioner Burrell moved to approve the Minutes of the Public Hearing and Regular Meeting of May 2, 2005, Special Meeting and Budget Work Session of May 10, 2005. Commissioner Cowan seconded the Motion. Motion carried.

INFORMAL COMMENTS BY THE PUBLIC: T. J. Walker urged the Board to approve the Preferred Settlement Agreement concerning Duke Energy's Relicensing Application. It is of great economic importance to the county that the Dillsboro Dam be preserved.

(1) FINANCE & TAX COLLECTOR REPORTS FOR APRIL 2005 & BUDGET AMENDMENTS: Commissioner Crawford moved to approve the Consent Agenda. Commissioner Burrell seconded the Motion. Motion carried by unanimous vote.

(2) CHAIRMAN'S REPORT: Chairman McMahan commended Sheriff Ashe for being named "Peacemaker of the Year" by Mountain Mediation Services. He congratulated Commissioner Madden for receiving his master's degree in business administration from WCU on May 7th. He reported that he attended the transportation decision forum on May 10th sponsored by the Smart Roads Alliance.

(3) COMMISSIONERS REPORT: Commissioner Madden read a letter addressed to him dated May 4, 2005 from W. Barry Moore, President, of Smoke Rise Field Club. It stated in part:

“Now we would prefer not to operate our club in an area where such strong negative feelings exist. If the ordinance is dropped, we will terminate our contract to purchase the Tilley Creek property immediately. In short, we will not operate a shooting range facility on Tilley Creek if there is no ordinance. Because we do not want to go through this again, we will not locate a shooting facility around any populated areas. We are not now and have no plans to look for other property in Jackson County. We are currently looking out of state. If we ever get a new facility, it will be completely isolated by Forest property. You will not face this with us again because we do not want to be involved in another fight. We just want you to drop the proposed ordinance. Please let me know if this is agreeable as soon as possible so that we can terminate the contract during the due diligence period.”

(4) COUNTY MANAGER’S REPORT: None.

(6) WESTCARE AMBULANCE SERVICE: Toby Moore presented a summary of ambulance services for the past five years. EMS handled a total of 15,403 calls during that period of time. EMS uses an outside independent agency to manage its finances. EMS Base 1 is located at WestCare Hospital and Base 2 is located on Old Settlement Road beside New Hope Church. Base 2 helps reduce response time in the Cullowhee/Savannah area. The response time for the entire county is approximately 14 minutes 90% of the time. Because of the increase of the call volume in the Qualla area, EMS would like to locate a Base in the new Qualla Fire Dept. facility within two years. He named some of the “stand-by” services (approximately 2,000 hours per year) and special events in which EMS participates at no cost. EMS offers one ambulance 24-hours per day at the Base 1 station and one ambulance 12-hours per day at Base 2. EMS scored 100% and was reaccredited in March 2005 by the Commission on Accreditation of Ambulance Services. EMS has been fortunate to be awarded several grants. One of which was used to start a bicycle medic team for use at events not conducive to large vehicles. The first responder program is doing very well. EMS plans include adding another fulltime night shift.

(7) SCATTERED SITE HOUSING PROGRAM FUNDING APPROVAL AND BUDGET: Commissioner Burrell moved to approve the Funding Approval for Grant No. 03-C-1128 in the amount of \$500,000.00 and Budget Amendment in the amount of \$100,000.00. Commissioner Madden seconded the Motion. Motion carried by unanimous vote.

(8) CASHIERS SRC IMPROVEMENTS BIDS: Mr. Westmoreland recommended that this issue be carried over because the bid was over budget and give him time to work with the contractor to see if it can be reduced more closely to the original budget. The bid is good for 60 days.

(9) PARKS MAINTENANCE HOUSINGKEEPING POSITION: Commissioner Crawford moved to approve the transfer and start date of June 1, 2005. Commissioner Burrell seconded the Motion. Motion carried by unanimous vote.

(10) RESOLUTION (R05-15) BRIDGE ACCESS FROM NC116 TO US23-441. This resolution requests the North Carolina Dept. of Transportation to perform a feasibility study for constructing a bridge to carry NC 116 traffic over US 23/441 for the purpose of providing more efficient access. Commissioner Crawford moved to adopt the Resolution. Commissioner Cowan seconded the Motion. Motion carried by unanimous vote.

(11) SOCIAL SERVICES BOARD APPOINTMENT: Commissioner Crawford moved to re-appoint Dawn Madden to a 3-year term on the Social Services Board. Commissioner Burrell seconded the Motion. Motion carried by unanimous vote.

(12) CASHIERS RECREATION ADVISORY BOARD APPOINTMENTS: Commissioner Madden moved to appoint Conrad Fowler, Jr., Lesley Madden, Jim Yoder, Mark Jones, Phil Ward, and Ashley Brabenec to the Cashiers Recreation Advisory Board. Commissioner Crawford seconded the Motion. Motion carried by unanimous vote.

(13) RESOLUTION (R05-16) WORKERS COMPENSATION AGREEMENT: Commissioner Cowan moved to adopt the Resolution. Commissioner Madden seconded the Motion. Motion carried by unanimous vote.

(14) SHOOTING RANGE DEVELOPMENT ORDINANCE: Commissioner Cowan stated that the Chairman of the Planning Board called him and requested more time to work on an ordinance. Commissioner Cowan stated he was willing to hold the proposed ordinance in abeyance, taking into consideration the letter dated May 4, 2005 from Smoke Rise Field Club, if a 90-day Moratorium was imposed.

Commissioner Cowan moved to impose a 90-day Moratorium preventing any type of shooting range being built in the county so the Planning Board will have an additional 90 days to work on the ordinance. Commissioner Burrell seconded the Motion.

Chairman McMahan read a letter dated May 13, 2005, from Linda Cable, Planning Coordinator, which stated in part:

“At the direction of the Planning Board Members I am submitting the following: The Planning Board met last night and expressed concerns regarding the Shooting Range Ordinance being considered by the Commissioners. Board Members are not comfortable advising the Commissioners on this ordinance without appropriate time to study the issues and hear from experts in this field. To date we have not been able to locate an ordinance adopted by another county, this includes the eight southeastern States covered by EPA’s Region 4. Having an ordinance that has stood the test of time would be very helpful to this process. This is a very complex issue that deserves adequate time for consideration.”

Chairman McMahan stated that there are three groups involved, i.e., a group that does not want a shooting range on Tilley Creek, a group that wants a shooting range, and then people who live outside the Tilley Creek community who do not want an ordinance because it impacts more than just one community. He stated it was his opinion that Tilley Creek is an inappropriate site for a shooting range; however, there are other appropriate sites in the county. Further, he still has grave reservations about an ordinance which is very strict with limited setbacks and, at this time, the proposed ordinance does not allow a shooting range to be built anywhere in the county. He stated he was not in favor of

Smoke Rise Field Club or its plans to build a shooting range on Tilley Creek. However, he was opposed to an ordinance that regulates all of Jackson County.

Commissioner Crawford stated that after reviewing the letter from Smoke Rise Field Club, she did not see the need for a moratorium since it appears to be a written promise.

Commissioner Burrell stated that if Smoke Rise Field Club plans to terminate its contract for the Tilley Creek property, why it would request the stipulation “if the ordinance is dropped”. Since the letter does not bind Smoke Rise to anything, the county should take into consideration what will happen if the club changes officers, Smoke Rise decides to buy the property and build a shooting range after the “ordinance is dropped”.

Commissioner Madden stated that a 90-day Moratorium should be ample time in which Smoke Rise Field Club can terminate its contract and they should deliver a copy of that termination to this Board. In the meantime, the Planning Board can continue its work on the ordinance and if the delivery of the termination is not made, then the Board has spent its time wisely in finalizing an ordinance.

Motion carried by a vote of 3-2 with Chairman McMahan and Commissioner Crawford voting “nay”.

(15) LIBRARY COMMITTEES: Mr. Westmoreland stated that the Board appropriated \$40,000 to the library which was initially earmarked for two uses: (a) library consultant to do a needs study and, (b) engage a grants writer to solicit funds for a future library. Commissioner Madden moved to appropriate \$6,300 to the Library Committees from the \$40,000. Commissioner Cowan seconded the Motion. Motion carried by unanimous vote.

(16) CANADA PARK IMPROVEMENTS BIDS: Mr. Westmoreland recommended that this issue be carried over to the June meeting because the bid was approximately \$50,000 over budget and the staff would like time to work with the contractor to get the amount within budget. The bid is good for 60 days.

(17) SMOKY MOUNTAIN HIGH SITE WORK, PHASE I, BIDS: Mr. Westmoreland reported that before a final decision can be made, the Board must know if the utilities (electric, telephone, cable, gas) on site can be relocated. A meeting has been scheduled for May 17th on site with the utility companies so a determination can be made on a specific time they can commit to for relocation of those utilities. The contractor is at the mercy of the utilities because only a limited amount of work can be accomplished before the utilities are relocated since the majority of work would be under the major transfer lines. If an award is made and the utilities were not able to relocate their poles, lines, etc., then the county would automatically be setting the contractor back from the appointed time, liquidated damages and problems associated with the contract. He requested that this issue be carried over because the county can extend the time for making the award. He suggested that a Special Meeting be scheduled on May 23rd for the express purpose of accepting a recommendation from him and the School Board regarding the contract. He stated that he had met with Ms. Sue Nations, Superintendent, and the School Board earlier today and they fully understand the issues and if it is

determined that the utilities cannot meet the time schedule of the contractor, then the School Board will be looking at other alternative capital projects.

Mr. Westmoreland was asked if there were any other plans to move the dirt to another site and not revise the front parking lot so the county can do at least part of the Phase I project? Mr. Westmoreland responded that John Cort, Architect, and Victor Lofquist, Engineer, have also been instructed to look at dividing Phase I into Plan "A" and "B". If that happens, then it would be referred to as Phase I, II, and III. They are looking at that as an alternative. This would require that the county re-negotiate a contract with the prospective low bidder who would have to agree with it and delay a part of Phase I until next summer.

Commissioner Burrell stated that it appears to him that bringing the parking lot up level with the school will be a detraction unless it is a necessity and being able to see the building from Hwy. 107 is important. Mr. Westmoreland responded that the reason for raising the parking lot is for storm water detention, retention, and release. Because of the drainage area, the design is to build underground retention through a pipe/holding tank system under the parking lot so water is released slowly over a period of time into the normal storm drain system.

Commissioner Madden requested Mr. Westmoreland to specifically verify that if it is feasible to divide the project as Commissioner Burrell indicated, then the contractor would not necessarily have to complete the project in the 86-day summer vacation. If that is the case and there is no hurry, he recommended that the bid be rejected and solicit new bids for the new project. The present bid is \$700,000 over budget. Mr. Westmoreland responded that the county is responsible for the cost of utility relocation.

Commissioner Burrell stated that the Board may be able to negotiate with DOT to do some of the work.

Chairman McMahan scheduled a Special Meeting concerning this issue on May 23, 2005, 4:00 p.m.

(18) GLENVILLE SRC SITE LEASE: Mr. Westmoreland reported that Mr. Joe Hooper has been unavailable to execute the lease. Carry over to 6/6/05.

(19) DUKE POWER RELICENSING AGREEMENT: Mr. Westmoreland presented the "Tuckasegee River & Nantahala Area Preferred Settlement Agreement", as drafted by him and Attorney Paul Nolan, for approval. It has been revised pursuant to this Board's direction. He stated there may be one or two minor words that need changing. Mr. Westmoreland requested the Board's authorization to proceed with that filing and to give him a little latitude if there are any minor changes in wording, nothing substantial, that needs to be done before the actually filing. All of the interveners have collaborated and all parties are in agreement. The small changes include an issue in the lakeshore management guidelines regarding plantings in the buffer area which specifies "tall grass" and there is some discussion to substitute "tall grass" for "native grasses". Mr. Nolan would like to file the document directly with the Federal Energy Regulatory Commission by the first of June. The Glenville CDC was added as an intervener today, May 16, 2005. Commissioner Crawford moved to grant Mr. Westmoreland the authority to make minor wording changes and file the document with the Federal Energy Regulatory Commission. Chairman McMahan seconded the Motion. Motion carried by unanimous vote.

(20) HABITAT FOR HUMANITY: Sandy Bishop stated that Habitat for Humanity has been in existence in the county for 8-9 years. During the last seven years, seven houses have been built (most in the Sylva area, one in the Glenville area). There is a lot of interest among the current Habitat Board Members and local residents that there is a great need for affordable housing in the Cashiers-Glenville area. Habitat held two public meetings in January and February and a great deal of local interest has been generated towards establishing affordable housing in that area. Habitat is of the opinion there would be no problem raising the money since it already have commitments from volunteers, local churches, individuals and other organizations. However, land is needed. He requested that the Board convey the property located on Slabtown Road (PIN: 7572-13-6146) consisting of approximately 1.23 acres to Habitat for Humanity. This site is close to the sewer line area and if they are able to connect to the sewer line, they would be able to get 3 or 4 houses on the site. Habitat customarily builds 3-bedroom 2-bath houses. He stated that houses on this site would upgrade the community and would not impact major development areas. He stated that families are selected through a rigorous process; they must be low income families who cannot obtain conventional bank loans; must be a stable family who will be able to pay off a no-interest low mortgage. The typical cost to the family is a \$50,000 loan with a 20-30 year repayment period with no interest. In addition, the families are required to put in 500 hours of “sweat equity” on their house or other houses. Habitat is a 501 (c) charitable organization. Mr. Westmoreland stated that he did not know of any use for the property by the county. The previous Board had requested that this property be added to its surplus list. Mr. Bishop was requested to ascertain if Habitat could secure sewer connections to this site. This request was carried over to 6/6/05.

(21) JACKSON DEVELOPMENT CORP. INC. FORECLOSURE: Mr. Holt stated that the foreclosure proceeding had been dismissed this afternoon. The public records reveal that Jackson Dev. Corp. obtained a \$175,000 loan from James Hooper which is a first deed of trust. The Economic Development Commission and Jackson Dev. Corp. executed and filed a Subordination Agreement to the \$568,000 EDC Deed of Trust to the \$175,000 Hooper Deed of Trust, thus, EDC still holds a second deed of trust. Tom McClure executed both documents.

(22) AGREEMENT - USDA RURAL DEVELOPMENT for LOW INCOME HOUSING & ASSISTANCE: USDA Rural Development operates a home repair loan and grant program. This program is targeted toward homeowners who have very low incomes and are unable to provide for home repairs from their own resources and unable to obtain affordable financing through conventional loan sources. Assistance is needed to locate individuals who need the assistance, in packaging applications, and in writing specifications for work to be performed. The services to be provided by the county will be to explain to the homeowner the role of the partner and obtain the homeowner’s signature on an agreement, and package a complete application for the USDA Rural Development. Mr. Westmoreland stated that the Community Development Commission in Raleigh has recommended that the county’s office of Community Development, Joan Stillwell, do these programs. The county will receive payment for work performed based

on services provided, i.e., application packaging services \$300, specification preparation services \$200. Ms. Stillwell has agreed to handle this project with the Board's approval. No payment will be made if the loan or grant is not made. Carry over to 6/6/05.

(23) FY2005-2006 BUDGET ORDINANCE: Chairman McMahan stated the following changes were made to the Proposed Budget:

R.E.A.C.H.	\$ 35,000
SMH Science Bldg.	\$ 109,638
School Current Operations	\$ 80,000
Sheriff's Office	\$ 88,071
Jail	\$ 17,349

Commissioner Burrell moved to adopt the Budget Ordinance. Commissioner Cowan seconded the Motion. Motion carried by unanimous vote.

(24) RESOLUTION (R05-17) USDA RURAL CENTER GRANT: Mr. Westmoreland explained that the USDA Rural Center requires, as a part of the Beneficial Landfill Gas Project \$80,000 grant for equipment, that the county adopt a resolution stating that the county agrees to a Letter of Conditions and accepts the mitigation measures required in the project environmental assessment. Commissioner Burrell moved to adopt the Resolution. Commissioner Cowan seconded the Motion. Motion carried by unanimous vote.

Commissioner Crawford moved that the Board go into Closed Session pursuant to G. S. 143-318.11(a)(5) Real Property. G.S. 143-318.11(a)(3) Legal. Commissioner Madden seconded the Motion. Motion carried.

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 Crawford seconded the Motion. Motion carried and the meeting adjourned at 8:30 p.m.

Attested By:

Approved:

Evelyn B. Baker
Clerk to the Board

Brian Thomas McMahan, Chairman

