

Posted: \_\_\_\_\_  
Time Posted: \_\_\_\_\_  
Posted By: Evelyn Baker  
Witness: \_\_\_\_\_

**MINUTES OF THE REGULAR MEETING  
OF THE JACKSON COUNTY  
BOARD OF COMMISSIONERS  
HELD ON  
AUGUST 1, 2005**

The Jackson County Board of Commissioners met in Regular Session on August 1, 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  
Conrad Burrell, Commissioner  
Eddie Madden, 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&E Contract for Fairview Kindergarten Classrooms and SMH Victory Club Contribution. Commissioner Crawford moved to approve the amended Agenda. Commissioner Burrell seconded the Motion. Motion carried.

**MINUTES:** Commissioner Madden moved to approve the Minutes of the Regular Meeting of July 14, 2005 and Special Meeting of July 25, 2005. Commissioner Cowan seconded the Motion. Motion carried.

**INFORMAL COMMENTS BY THE PUBLIC:** None.

**(1) FINANCE & TAX COLLECTOR REPORTS FOR JULY 2005:** Carry over to August 15, 2005.

**(2) BUDGET AMENDMENTS:** Carry over to August 15, 2005.

**(3) 2004 TAX SETTLEMENT REPORT:** Beverly Buchanan, Tax Collector submitted the 2004 Tax Settlement Reports for the county and municipalities. She reported that the 2004 tax collected was \$21,045,354.92 and the total delinquent tax collected was \$1,040,397.13. The collection rate was 96.96%, the highest it has been in several years.

**(4) CHAIRMAN'S REPORT:** Chairman McMahan reported the following:

- (a) He attended a recent Transit Board meeting and learned it has decided to add a new route.
- (b) He attended an open house at the Sylva Fire Dept.'s new training facility on July 30<sup>th</sup>.
- (c) The Qualla Fire Dept. is holding its annual bar-be-que dinner on August 6<sup>th</sup>.
- (d) The Balsam Fire Dept. is holding its annual ham dinner at noon on August 13<sup>th</sup>.
- (e) The first regular meeting in September will be held on Tuesday, September 6<sup>th</sup> due to the Labor Day Holiday.
- (f) There will be a ceremony presenting Cora Beasley, recipient of a new house through the Scattered Site Housing Program, the keys to her new home on August 11<sup>th</sup> at 10:00 a.m.
- (g) A Work Session was scheduled on August 29<sup>th</sup> at 6:00 p.m. to discuss the Health Dept. Needs Assessment.

**(5) COMMISSIONERS REPORT:** None.

**(6) COUNTY MANAGER'S REPORT:** None.

**(7) PLANNING DEPT. REPORT:** Linda Cable, Planning Coordinator, reported that the Land Development Plan Committee will meet on August 17<sup>th</sup>. The committee is continuing to gather data and photographs for use in developing a land use plan. She will be meeting with the Friends of Lake Glenville on August 6<sup>th</sup> to discuss development around Lake Glenville. Her department has been performing erosion inspections for the Towns of Webster and Dillsboro and Village of Forest Hills; however, the requests were not submitted by a formal letter. The municipalities will be requested to submit formal letters requesting inspections in the future which will enable the department to apply for grants.

**(8) SMH SCHOOL CAPITAL IMPROVEMENT PROJECTS:** A joint meeting was held with the Board of Education at 4:00 p.m. on July 25<sup>th</sup> for a presentation by the architect and engineer on revising Phase I and Phase II. The Board of Education approved the plans as presented at its regular meeting at 7:00 p.m. on July 25<sup>th</sup>. The architect presented the following anticipated budget:

Utility Relocation.....	\$ 471,359
Jones Property Sitework (Phase I).....	1,703,075
Bus Relocation/Student Parking (Phase II)..	2,750,280
Design Services.....	<u>358,320</u>
	\$5,283,034

Chairman McMahan suspended the rules and Commissioner Cowan moved to approve the revised plans. Commissioner Burrell seconded the Motion. Motion carried by unanimous vote.

**(9) LAKE GLENVILLE BOAT DOCKS:** George Stanley stated he purchased property on Pine Creek Rd. on October 28, 1991. After the purchase he spoke with Steve Bush of Nantahala Power (NP&L) about cutting trees on the lake frontage. Mr. Bush requested him to mark the trees and he (Bush) would determine which trees could be cut. This was done and the clearing was completed by April 20, 1993. Mr. Stanley stated he

spoke with Mr. Bush again about construction of a boat dock and was advised that NP&L could not grant permission because Jackson County had a lease on the property; however, “if the county had no objections, Nantahala did not care”. Mr. Stanley then contacted Rick Bennett who was then Director of the Recreation/Parks Dept. who advised him that the county had developed the Andrews Park instead of the property along Pine Creek Road and the “county had no objection, if Nantahala had no objection”. Tom Griffith purchased property adjoining Mr. Stanley’s and the wilderness launch in 1993. Mr. Griffith was advised by Gil Bannerman, realtor that it was his (Bannerman’s) understanding, after talking with Steve Bush of NP&L, that the county was allowing the placement of docks along that section of the Pine Creek shoreline and they should be allowed to have a dock. Mr. Griffith also had conversations about a dock with Mr. Mostella of the power company. Doyle Alexander purchased his property in 1997 and shares in the maintenance of the area around the boat dock with Mr. Stanley. The public has never been prevented from using the area around his boat dock.

Mr. Stanley stated that NP&L introduced the idea of shoreline management in the mid 1990’s. Property owners had several communications about this concept, but nothing was implemented. When Duke Power purchased NP&L, property owners were advised that Lake Glenville would be managed as all other Duke lakes. Mr. Stanley then met with Mr. Gallagher of Duke Power and was advised that Duke would most likely not lease water front property to an individual, but would possibly lease property for a business venture.

Mr. Stanley also submitted several photographs of the shoreline along Pine Creek Road depicting three other boat docks. There is no access to the lake other than where he and others have cleared an area except the sections known as “The Pines” and “The Point”. Mr. Stanley acknowledged that his boat dock is on public property and he has nothing in writing from the power company permitting his dock.

Chairman McMahan read excerpts from the May 4, 1971 Agreement between Nantahala Power and Jackson County as follows:

- “2. The rights of the County under this agreement in and to the above described property shall be limited to the use thereof for the development, operation, management and maintenance of the same by the County for public picnicking, camping, fishing, boating and recreational purposes and uses and for any purposes and uses necessarily or reasonably related thereto and for no other purposes or uses.*
- 5. The County will not construct or maintain, and will not permit others to construct or maintain, any substantial and durable improvement in or upon the above described property, or construct or open any areas for access to the waters of the reservoir or adjacent property, except with the written consent of, and upon the written approval of plans therefore and locations thereof by, Nantahala. Plans for any substantial and durable building to be constructed and maintained will show the proposed costs thereof.*
- 10. The rights herein granted shall not be assigned or transferred by the County without the consent in writing of Nantahala and such consent of the Federal Power Commission as may then be required by the terms of Nantahala’s FPC License.”*

Barbara Ward stated that she had been informed by Mr. Mosteller of Duke Power that she must remove her boat dock by August 9th. She asked if she could apply for a permit and was informed “no, because it is on Jackson County leased land”. She stated she had had her dock for many years, as has Mr. Stanley, Mr. Alexander and others. They maintain the area around their docks and have never denied the public access to the lake. She talked with Wildlife Officer Brent Hyatt who informed her that there was no problem with the location of her dock because it did not interfere with the wildlife access site. She stated that the docks are not permanent structures and urged the Board to grant

permission for her and other dock owners to apply to Duke for permits. They are agreeable to meet all of Duke's requirements. The wildlife dock is also located on county property.

Commissioner Madden asked Mr. Holt if the county has the right to terminate the lease. Mr. Holt stated that he had not read the lease, but will give a firm answer at the next meeting. Commissioner Burrell stated that some of the docks have been there as long as 15-20 years and he has no objection to their remaining subject to Duke's approval. Mr. Holt stated that by leaving the docks in place does not restrict the use of the entire area by the public.

Fred Alexander, District Manager for Nantahala Power, stated that before the county can develop any type of usage of that property, it must submit to the power company a written plan which must be approved by the company. He stated he had sent a letter dated July 26, 2005, to Chairman McMahan that states "... written consent will not be given for a private dock". He stated that when the dam was closed in 1941 at the reservoir there was no Shoreline Management Plan until the mid 1980's which was initiated primarily by The Friends of Lake Glenville. The Plan was sent to property owners requesting comments and was finalized in 2000. He stated the shoreline management group has tried for years to have the docks removed and Duke perceives this situation as an attempt to build docks without going through the permitting process. Duke works closely with the Wildlife Commission in allowing it to have access. He agreed to meet with the property owners to discuss the issue further.

Martha Bradley stated she did not understand why certain individuals are permitted to have docks and others cannot since shoreline management states:

*"Section C. Single Family Piers and Docks: Single family piers and docks are permitted for the private non-commercial use of individual property owners or leaseholders that own property adjoining the project boundary."*

**(10) CASHIERS RECREATION CENTER:** Dan Duckham, Architect, presented conceptual plans for a 24,000 sq. ft. one-story building. The plan includes an indoor walking/running track, gym, fitness center and aerobics area, meeting room, lounge, reception area, kitchen/Senior Café, and several storage spaces. The site plan also includes a 180 space parking area and sufficient space for future expansion of the building. The plans call for two one-way streets with a greenway island in the center.

**(11) CASHIERS RECREATION CENTER ARCHITECTURAL CONTRACT:** Dan Duckham submitted an Architectural Contract for the new Cashiers Recreation Center. The fee is 7 ½% of project construction cost. Mr. Westmoreland stated that all of the work Mr. Duckham has done to date has been free and the contract is consistent with all other county architectural contracts. Chairman McMahan suspended the rules and Commissioner Madden moved to approve the contract. Commissioner Burrell seconded the Motion. Motion carried by unanimous vote.

**(12) AGING DEPT.:** Helen Bryson, Director, stated that historically the Dept. on Aging and Golden Age Center have utilized and relied upon Jackson County Transit to transport senior citizen groups on various outings and organized activities. Recently DOT issued a new policy directive stopping this type of service. Two Transit vans are scheduled to be taken out of service this budget year and replaced with new vehicles. The

Dept. on Aging requests that the Board authorize the transfer of these vans to the Dept. on Aging. After discussion, it was recommended that the vans be transferred to the "County Motor Pool" so they can be used by all departments. Chuck Norris, Transit Director, stated that DOT must be advised in the disposition request that the County's use of the vans will not interfere with the services provided by the Transit Dept. The Dept. on Aging can continue with the present arrangement concerning using volunteer drivers as long as they are properly insured through the County's policy.

(13) **AGING DEPT. – PERSONNEL ALLOCATION CHANGES**: The Dept. on Aging budget provides for a fulltime position which serves as the Senior Center Activities Director. The person holding this position recently left the county service. The department also has the services of a senior aide funded by the State of Franklin working in the Project Care Program. The person in this position will soon lose her eligibility to continue with the program due to strict income guidelines. Helen Bryson, Director, requested consideration of dividing the funding for the Senior Center Director's position into two part-time positions, i.e., the Senior Center Director's position would be funded and programmed for five hours per day and the Project Care Assistant would become a county funded position for four hours per day. The cost to the county would be somewhat less since neither of the two part-time positions would require funding of fringe benefits. Chairman McMahan suspended the rules and Commissioner Cowan authorize the allocation changes. Commissioner Madden seconded the Motion. Motion carried by unanimous vote.

(14) **EMPLOYEE CHRISTMAS LUNCHEON**: The Board, by consensus, selected December 15, 2005, 12:00 noon.

(15) **CASHIERS LIBRARY/SCC LANDSCAPE CONTRACT**: Philip Ward Landscape Architect, P.A. submitted a contract for landscaping at the Cashiers Library and SCC Building for a fee of \$4,850.00.

(16) **BENEFICIAL GAS PROJECT**: Mr. Westmoreland reported that the landfill gas project had a number of components. One of which is the development of a shared use facility for Native Botanicals very similar to the project that has been pioneered in Mitchell and Yancey Counties. The county worked in cooperation with WCU Outreach Center in the development of the proposal and submitted a grant application to the Golden Leaf Foundation. The individual who worked for the Regional Development Center at WCU is available to assist the county with the continuation of the project. The project is now at the point where there is a need to put together plans for the shared use facility. This position would be funded through the Golden Leaf Foundation grant on a contract basis, not as a county employee. Mr. Westmoreland requested authorization to contract with the individual to oversee that particular component of the landfill gas project. A formal contract will be available at the next meeting.

Odell Thompson, Architect, reported that the landfill has been capped and explained what the plans are for using the methane gas. There are six methane wells which should last for approximately 25 years. One metal building consists of 16,000-17,000 sq. ft. along with a second "open air" metal building at the site. The master plan

drawing depicts how the metal buildings can be utilized, where the greenhouses could be located and supporting each with sufficient parking. The plan depicts a gallery shop, glass/pottery studios, botanical processing center with loading area, meeting room, courtyard café, metal works (blacksmith, foundry, casting, etc.) area, maintenance building, open air market, potential amphitheater, Phase I and Phase II greenhouses. He submitted a schematic design for remodeling the existing buildings. The object is to show how to reuse energy already available as well as make it inviting for groups to come and work. He also suggested a pedestrian walking trail over the landfill. Improvements will be made to the metal buildings to make them more inviting. He also suggested that the site have a memorable name such as, “Jackson County **X-AMPLE** Project” (**eXtracting And Maximizing the Potential of Landfill Energy**).

Mr. Westmoreland stated that the county would allocate no more on the beneficial landfill gas usage project than it would have budgeted in order to meet the state and federal requirements by capping and meeting environmental regulations. All of the county’s budget for the landfill closure will be utilized for the collection and gas burning systems. All other improvements are funded by grant monies.

**(17) FAIRVIEW SCHOOL KINDERGARTEN CLASSROOMS:** Mr. Westmoreland recommended that Cort Architectural be given authorization to prepare a needs assessment and design a facility for new kindergarten classrooms at Fairview School. The Board of Education approved this recommendation at its July 25<sup>th</sup> regular meeting. Chairman McMahan suspended the rules and Commissioner Cowan moved to approve the recommendation. Commissioner Burrell seconded the Motion. Motion carried by unanimous vote.

**(18) SMH VICTORY CLUB CONTRIBUTION:** At the July 25<sup>th</sup> Joint Meeting with the Board of Education, the Board of Commissioners was asked to join a new organization called the “Victory Club” which is associated with the football program at SMH. The Board of Education has agreed to partner with the County and join the Victory Club. The cost is \$1,000 and the Board of Education suggested that each Board share equally in the cost. The Board of Education also requested that the Commissioners get together prior to the September 16, 2005 football for a tailgate party. Commissioner Burrell suggested that the County contribute \$1,000 and challenge the Board of Education to make a like contribution. Chairman McMahan suspended the rules and Commissioner Crawford moved to challenge the Board of Education to match the county’s contribution of \$1,000 to the Victory Club. Commissioner Burrell seconded the Motion. Motion carried by unanimous vote.

The Board of Commissioners was also requested to partner with the Board of Education in paying for a full-page ad in The Sylva Herald prior to the September 16<sup>th</sup> game in support of the football team.

**(18) SHOOTING RANGE ORDINANCE:** Chairman McMahan reported that the Smoke Rise Field Club, Inc. has purchased property in Transylvania County. Commissioner Burrell stated that he understood that if Smoke Rise moved out of Jackson County that a Shooting Range Ordinance would not be adopted. Commissioner Burrell moved that the proposed Ordinance be tabled indefinitely. Commissioner Madden

seconded the Motion. Commissioner Cowan stated that the only reason for the Ordinance was to protect homeowners and not allow shooting ranges to be built in residential neighborhoods, and that the safety aspects of shooting ranges be researched especially as they relate to environmental concerns. He stated that he could only vote not to adopt the Ordinance with the understanding that it will be “shelved” and could be retrieved in the future if the need arises. Commissioner Madden stated that this issue was a matter of integrity with him in that he negotiated with Smoke Rise Field Club, Inc. to terminate its contract for the Tilley Creek property. Smoke Rise agreed if Commissioner Madden would not vote in favor of an Ordinance. The Board expressed appreciation and thanks to the Planning Board for its work on the Ordinance. Motion carried by unanimous vote.

**(19) CABLE TV FRANCHISE AGREEMENT:** Maurice Moody, on behalf of the committee, submitted a summary of the new franchise agreement (ordinance) as follows:

- Defines a standard installation as 300 ft. from the nearest tap to the residence;
- Provides for service to any area which meets the density requirement of 20 homes per mile;
- Provides for cost-sharing for any area which does not meet the above density requirement;
- Provides courtesy cable service to one outlet at: all administrative buildings owned and occupied by the Franchising Authority, fire stations, police stations, and K-12 public schools provided they are within the service area;
- Provides for the provision of one Governmental and Educational Access Channel to be shared between all parties upon 90 days written request;
- Provides for the payment of an annual 3% franchise fee payment to each Franchising Authority based on annual gross revenues;
- Allows the franchise fee percentage to be adjusted on an annual basis with 90 days written notice – maximum cap is 5% under federal law;
- Requires the written consent of the Franchising Authority to sell, assign or transfer the franchise;
- Allows each Franchise Authority to annually review such books and records as is reasonably necessary to ensure compliance with the franchise;
- Requires Mediacom to maintain insurance and to provide a Certificate of Insurance;
- Indemnifies the Franchise Authority for any liability associated with damages or injuries which arise out of the construction, operation or maintenance of the cable system;
- Provides for the enforcement and termination of the franchise if the Franchise Authority does not believe Mediacom is in compliance with the terms and conditions set forth in the franchise;
- Grants a ten year franchise to Mediacom;

Mr. Westmoreland stated that even though the County’s franchise does not expire for another ten years. The municipalities’ franchises expire in October 2005. In order to provide for uniformity, Mediacom has agreed to renegotiate the County’s franchise and put it in effect as of October 1, 2005, along with the municipalities, for a period of ten years.

A Public Hearing was scheduled for August 15, 2005, 5:30 p.m.

**(20) RESOLUTION (R05-23) 911 ROAD NAMES:** Wanda Hall, Emergency Management Office, requested that the Board adopt a Resolution requesting that the North Carolina Department of Transportation officially adopt the County’s road names as stated on Attachment “A” to the Resolution. Further, that DOT be requested to consider number revisions to sections of certain roads as outlined in Emergency Management’s Petition. Uniformity of road names and numbers will assist emergency services.

(21) **RESOLUTION (R05-25) HAZARD MITIGATION PLAN:** The Emergency Management Dept. submitted a Hazard Mitigation Plan for Board approval. Mr. Westmoreland explained that each county is required to adopt a Hazard Mitigation Plan in order to continue to receive hazard mitigation funds.

(22) **APPOINTMENT TO PLANNING BOARD:** Carry over.

(23) **APPOINTMENT TO TWSA BOARD:** Chairman McMahan stated that he would like to continue to serve as one of the County's representatives to the TWSA Board. Chairman McMahan had previously been temporarily appointed to fill in for Frank Wilkie who was unable to serve, due to prior commitments until the summer. Chairman McMahan has talked with Frank Wilkie and he has no objection. Chairman McMahan stated he has spent many hours studying the sewer and water systems and would like to remain on the TWSA Board. Chairman McMahan suspended the rules and Commissioner Burrell moved to appoint Chairman McMahan to the TWSA Board of Directors. Commissioner Crawford seconded the Motion. Motion carried by unanimous vote.

(24) **APPOINTMENT TO AIRPORT AUTHORITY:** The Airport Authority, by letter, recommended two individuals, Greg Hall or Alston Macon, to fill the unexpired term of Chip Hall. Commissioner Crawford moved to table appointments to the Airport Authority. Commissioner Cowan seconded the Motion. Commissioner Cowan stated that as long as litigation is pending, it would not be appropriate to make appointments to that Board until the lawsuit is settled. Motion carried by unanimous vote.

Commissioner Crawford moved that the Board go into Closed Session pursuant to G. S. 143-318.11(a)(3) Legal, G. S. 143-318.11(a)(5) Real Property, and G. S. 143-318.11(a)(6) Personnel. Commissioner Burrell 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 Cowan moved that the meeting be adjourned. Commissioner Burrell seconded the Motion. Motion carried and the meeting adjourned at 10:00 p.m.

Attested By:

Approved:

\_\_\_\_\_  
Evelyn B. Baker  
Clerk to the Board

\_\_\_\_\_  
Brian Thomas McMahan, Chairman

