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Posted By: Evelyn Baker
Witness: _____

**MINUTES OF THE REGULAR MEETING
OF THE JACKSON COUNTY
BOARD OF COMMISSIONERS
HELD ON
AUGUST 17, 2006**

The Jackson County Board of Commissioners met in Regular Session on August 17, 2006, 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 and reminded the Board that action will be taken during the meeting since it is the only meeting in August.

AGENDA: Commissioner Madden moved to approve the Agenda. Commissioner Crawford seconded the Motion. Motion carried.

MINUTES: Commissioner Cowan moved to approve the Minutes of the Regular Meeting of July 17, 2006. Commissioner Burrell seconded the Motion. Motion carried.

INFORMAL COMMENTS BY THE PUBLIC:

T. J. Krueger, local businessman and resident of Tuckaseegee, stated he was strongly opposed to the proposed mining operation and mining will pollute the river and otherwise ruin the entire area.

Margo Wilcox, resident of Tuckaseegee, read a statement from her neighbor, Hugh Thompson (he was unable to attend the meeting). Mr. Thompson's property is adjacent to the proposed mining site and property values will decrease if a mining operation is allowed in the area. Further, increased traffic to and from the mining site would present safety issues on Highways 107 and 281. He requested the Board's support in stopping the permitting of the rock quarry.

Paul Millsaps, resident of Tuckaseegee, stated that the proposed mining will adversely affect two watersheds as well as the river.

Keith Brown, resident of Tuckaseegee, stated he has 15 years of experience with rock quarries and there is no way to prevent rock dust. He stated he lost most of his sense of taste and smell from working in rock quarries and Tuckaseegee does not need a rock quarry.

Peggy Dawson, resident of Tuckaseige, stated that Tuckaseige is a residential community and the county would realize more tax revenues from residential development than a rock quarry and a rock quarry will cause property values to decrease.

(1) FINANCE & TAX COLLECTOR REPORTS FOR JULY 2006: Darlene Fox, Finance Director, presented the following highlights:

General Fund Revenues Collected to Date	\$ 1,817,654.14
General Fund Expenditures to Date	\$ 3,797,984.85
Ad Valorem Tax Collected	\$ 10,544.40
Motor Vehicle Tax Collected	\$ 60,955.42
Sales & Use Tax for May 2006	\$ 855,837.01
Prior Year Landfill Disposal Fees	\$ 7,795.84
Contingency Balance	\$ 154,317.00

(2) BUDGET AMENDMENTS:

Health Dept	\$ 70,335.00
Workmans Comp Insurance	\$ 11,108.00
General Fund (close-out FY05-06)	\$ 1,373,107.00
Capital Reserve Fund	\$ 5,162.00
Emergency Telephone Fund	\$ 37,317.00
TTA Fund	\$ 35,238.00

(3) 2005 TAX SETTLEMENT: Beverly Buchanan, Tax Collector, submitted the 2005 Tax Settlement reports which include delinquent tax, landfill tax, motor vehicle tax, and tax settlements for the municipalities. The total levy was \$20,753,194.00.

Commissioner Crawford moved to approve the Finance and Tax Collector's reports for the month of July, Budget Amendments, and 2005 Tax Settlement Reports. Commissioner Burrell seconded the Motion. Motion carried by unanimous vote.

(4) CHAIRMAN'S REPORT: Chairman McMahan reported:

- (a) He and Mr. Westmoreland attended the NACO Annual Convention in Chicago on August 4 – 8.
- (b) The Region A Annual Meeting is scheduled on August 21, 6:00 pm, Holiday Inn Cherokee.
- (c) The NCACC Annual Conference is scheduled on September 7-9 in Forsyth County.

(5) COMMISSIONERS REPORT: None.

(6) COUNTY MANAGER'S REPORT: Mr. Westmoreland gave an update on the various construction projects as follows:

- (a) Cashiers Rec Center – approved by Community Dev. Council and Design Review Board on August 14th. The project should be advertised for bids around the first of September.
- (b) Smoky Mtn. High School – on schedule and the parking lot between the athletic fields and classroom area is scheduled for paving on August 21.
- (c) Canada Park – the pavilion is up and the playground equipment will be installed the first of next week; the restroom facilities will be installed within the next couple of weeks; the facility should be operational and open for use by September.
- (d) Jackson County Rec Center – expansion is ahead of schedule.
- (e) Cashiers SRC – facility will be closed through September 15th.
- (f) Old Jail – demolished and construction continuing with installation of the elevator and other minor renovations and improvements at the Historic Courthouse.
- (g) Library – committee held first meeting with the architect today on 8.21; the committee scheduled the process by which they will move forward with their fundraising efforts; a schematic report will be presented in late November or early December.

(7) PLANNING DEPT. REPORT: Linda Cable, Planning Coordinator, submitted a written report which states that during the month of July two erosion control permits were issued and six are under review. Six cell tower applications are under review. No erosion violations were issued in July.

(8) TUCKASEIGEE MINING OPERATION - RESOLUTION R06-17: Nola Brown, resident of Tuckaseegee and representing the United Neighbors of Tuckaseegee a Petition containing approximately 1,500 signatures of citizens opposing the quarry. She presented an aerial photograph depicting the rock quarry site as proposed by Carolina Boulder & Stone, LLC. The site consists of 56.77 acres off Hwy. 281. There are 39 residences located within one-quarter mile of the quarry site. The county ordinance prevents any such industry from locating within 1,320 linear feet of a home, business, school or public building. The closest house is less than 100 feet from the site. If the quarry is permitted, long time community residents and adjacent landowners would experience devastating impacts to their way of life. Tuckaseegee is a rural farming community and a rock quarry would destroy it. Further, Tuckaseegee Baptist Church, established in 1836, and Tuckaseegee Wesleyan Church, established in 1919, are located within one quarter mile of the proposed quarry site. The ordinance does not permit a variance. She urged the Board to stand behind its ordinance.

Tom Turrentine, resident of Tuckaseegee, stated that a mining operation will irreparably damage natural resources and cause a negative impact on the community. Environmental and health issues are important and should be considered if a mining operation is allowed. Environmental issues ranges from land, air, water, wildlife disruption, jeopardize the quality of air, and water for human consumption. There are several residents who have chronic health issues that could be worsened by decreasing the air quality. The quality of life as it pertains to noise levels would be disrupted by mining, crushing rock, and screening operations. He requested that the Board adopt a Resolution opposing the proposed mining operation in Tuckaseegee.

L. C. Jones introduced two consultants, Terry Kennedy and Robit Schetty of Geological Resources, Inc. of Charlotte, licensed engineers, who would be speaking on behalf of Carolina Boulder & Stone, LLC. Mr. Kennedy stated his firm has been assisting with mining permit applications in North Carolina since the Mining Act was enacted in 1971. His firm has been working with Carolina Boulder & Stone since April. His firm requires that clients follow the engineering plan to the letter of the law which is governed by the State of North Carolina as well as federal and local ordinances. He gave an overview of the Mining Act and its requirements. He stated that NCDEHNR is a regulatory agency with a stringent process pertaining to mining permits and read NCDEHNR's requirements.

Robit Sketty stated that mining applications go through a rigorous review process by numerous state agencies before a decision is made. Specific conditions are written into the permit document to insure compliance with state laws and regulations under the jurisdiction of various state agencies. The Division of Land Resources, Land Quality Section, is the lead agency in the review process. It reviews and approves sediment and erosion control plans, reviews and approves vegetation and reclamation plans, insures that buffer zones are addressed and maintained, and insures in its review process that the proposed operation is protective of human health, environment and public safety. It also

periodically inspects mining sites. Violations have severe penalties. Several other state agencies are involved in the process, such as, N.C. Wildlife Resources Commission – affects on wildlife; N.C. Division of Water Quality – storm water quality; Division of Air Quality – insures that safeguards are built in to protect air quality on site and immediate vicinity; Groundwater Section – insures that ground water quality at site and immediate vicinity is not adversely affected; Dept. of Cultural Resources, Division of Archives and History – insures that there are not adverse affects to the area’s of historical and cultural structures.

Mr. Kennedy stated that he does not know if NCDEHNR will issue a permit and a decision will not be made until some time after the August 22nd public hearing. He recommended that the Commissioners table this issue until such time as a permit is issued.

Mr. Holt asked if the engineers were familiar with the Jackson County Ordinance and the response was “yes”. He then asked if they were of the opinion that the proposed mining operation meets the qualifications of that ordinance if the state should issue a permit and the response was “ we would have to look into it at that time”.

Linda Cable, Planning Coordinator, stated that her office received a copy of the application that had been sent to the state. She sent a letter to Mr. Sketty explaining the county’s ordinance. Irregardless of what the state permits, the county’s ordinance would supersede that and nothing of this nature would be permitted at the particular site in question.

L. C. Jones of Carolina Boulder & Stone stated that the company only planned to remove boulders from the site, but a mining permit would also be required for that purpose.

Mr. Holt stated the county’s ordinance does not provide for the issuance of a variance.

Commissioner Cowan moved to adopt the Resolution. Commissioner Crawford seconded the Motion. Motion carried by unanimous vote.

(9) SEPTEMBER MEETING DATES: Chairman McMahan recommended that due to the Labor Day Holiday, September 18th will be the only regular meeting date in September. A Work Session was scheduled on September 11th at 6:00 pm.

(10) LOVE CEMETERY: Mr. Holt stated that his research reveals that Love Cemetery is a private cemetery still owned by the Love heirs and is not an abandoned public cemetery. He stated it was not his recommendation that the county attempt to acquire title by having someone execute a quitclaim deed, nor is it his recommendation that the county execute a quitclaim deed to anyone in an attempt to vest title in anyone else. Mr. Holt was requested to forward his August 14th letter and attachments to the state Advisory Committee on Abandoned Cemeteries (G. S.143B-128) for clarification of “abandoned”. A decision will not be made on this issue until Mr. Holt receives a response from the state.

(11) WHITTIER SANITARY SEWER DISTRICT PROJECT: Mr. Westmoreland reported that the Church of God has withdrawn its support of the project. The Eastern Band of Cherokee Indians has offered up to \$260,000 for construction costs plus \$100,000 per year for a period of three years for operating and maintenance. These amounts are still considerably below the engineer's estimates. The Rural Center has been requested to extend the deadline concerning its appropriation until September 1st. Any appropriation by the county would have to be in the 2007-08 budget.

(12) CELL TOWER REQUEST: A public hearing was held on August 17th at 5:30 p.m. and no objections were raised. Highpoint Towers, LLC and Cingular Wireless propose to construct a cell tower on US 441/Sheeprock Cove Road near Cherokee and is requesting a waiver of 13' on the east side of the property. In exchange, Highpoint Towers will provide a monopole with a certified "collapse" zone of 100 ft. in order to protect adjoining properties. Commissioner Madden moved to grant the request. Commissioner Cowan seconded the Motion. Motion carried by unanimous vote.

(13) SOLID WASTE CONTRACT: Mr. Westmoreland reported that three bids were received for hauling services, equipment leasing and SRC site staffing. The purposes for re-bidding the contract were to provide for upgrades at the SRC's and in particular the recycling bins. The bins will be lower, have sliding doors with larger openings. Secondly, the compactors for municipal solid waste will be closed containers which will eliminate the problem with leachate. The county also retains the right to staff any or all of the SRC's. He recommended that the bid be awarded to the low bidder, Republic Services (GDS) primary bid in the amount of \$36,912.25 per month. The new contract will take affect on January 1, 2007. Commissioner Burrell moved to award the bid to Republic Services. Commissioner Cowan seconded the Motion. Motion carried by unanimous vote.

(14) LIBRARY ROOF: Mr. Westmoreland reported that three bids were received. He recommended that the bid be awarded to the low bidder, T. R. Driscoll, Inc., in the amount of \$97,924.00 and is within the budget. Commissioner Cowan moved to award the bid to T. R. Driscoll, Inc. Commissioner Burrell seconded the Motion. Motion carried by unanimous vote.

(15) AGING DEPT. ARCHITECT FOR NEW FACILITY: Carry over.

(16) 2006 SCATTERED SITE HOUSING GRANT: Joan Stillwell, Community Development Director, reported that a \$400,000 grant has been approved. She presented the following documents for approval:

- (a) Grant Agreement
- (b) Funding Approval
- (c) Performance Base Contract
- (d) Grant Administrator
- (e) Section 504-Compliance Officer/Grievance Procedure
- (f) Code of Conduct/Hatch Act Policy
- (g) Citizen Participation Plan & Certification

- (h) Optional Coverage Relocation Plan Resolution
- (i) Residential Antidisplacement & Relocation Assistance Plan & Certification
- (j) Local Economic Benefit for Low & Very Low Income Persons Plan
- (k) Equal Employment & Procurement Plan
- (l) Recipient's Plan to Further Fair Housing
- (m) Floodplain Condition

She reported that the county has also been awarded a USDA Housing Preservation Grant in the amount of \$89,069.90.

Commissioner Crawford moved to approve the Grant Agreement. Commissioner Cowan seconded the Motion. Motion carried by unanimous vote.

Commissioner Cowan moved to approve the Funding Approval. Commissioner Madden seconded the Motion. Motion carried by unanimous vote.

Commissioner Madden moved to approve the Performance Base Contract. Commissioner Burrell seconded the Motion. Motion carried by unanimous vote.

Commissioner Crawford moved to approve the Grant Administrator, Section 504-Compliance Officer/Grievance Procedure, Code of Conduct/Hatch Act Policy, Citizen Participation Plan & Certification, Optional Coverage Relocation Plan Resolution, Residential Antidisplacement & Relocation Assistance Plan & Certification, Local Economic Benefit for Low & Very Low Income Persons Plan, Equal Employment & Procurement Plan, Recipient's Plan to Further Fair Housing, and Floodplain Condition. Commissioner Burrell seconded the Motion. Motion carried by unanimous vote.

(16) SAVANNAH FIRE DEPT/PUMPKINTOWN SUBSTATION: Chief Darrell Woodard presented plans for a 50'x50' pre-engineered metal building with three bays for a substation at Pumpkintown. The site, 1.62 acres plus water rights, was donated by the Pumpkintown Community Club. The majority of grading at the site has been completed, a tanker and pumper have been purchased and he has received three proposals for construction of the building. He recommended the lowest proposal which was from Western Builders of Sylva, Inc.'s in the amount of \$123,500 plus \$3,725 for brick on the front of the building for a total of \$127,225. He also received a proposal for the electrical work at a cost of \$15,000-\$20,000. He is working with lenders for a loan with the stipulation that the first payment will not be due until one year from the date of the loan closing. He estimated the total cost of the substation will be \$160,000. He anticipates that the substation will be complete by Thanksgiving 2006. He requested that financial assistance from the county be included in next year's budget.

Chairman McMahan stated that the request will be considered in next year's budget, but no commitment can be made by the county at this time because a new Board will take office in December.

(17) MOUNTAINEER ROAD- RESOLUTION R06-15: Clyde Casey, on behalf of the property owners adjoining Mountaineer Road, presented a Petition requesting that Mountaineer Road, approximately one-half mile, be added to the state's maintenance system. Commissioner Crawford moved to adopt the Resolution requesting that DOT add Mountaineer Road to its maintenance system. Commissioner Cowan seconded the Motion. Motion carried by unanimous vote.

(18) CAMP LAB BUILDING – RESOLUTION R06-16: Commissioner Burrell stated that Cullowhee School alumni, after their recent reunion, contacted him concerning the name on the former Camp Lab School building. The Resolution requests that WCU change the name of the University Outreach Center to “Cordelia Camp Building” and display her portrait in a prominent place in the lobby. Commissioner Crawford moved to adopt the Resolution. Commissioner Cowan seconded the Motion. Motion carried by unanimous vote.

(19) TRANSPORTATION STUDY TASK FORCE APPOINTMENTS: Carry over.

(20) JACKSON COUNTY CEMETERY BOARD: Carry over.

(21) AIRPORT AUTHORITY BOARD APPOINTMENTS: Carry over because a list of names has not been submitted by the Airport Authority.

(22) APPOINTMENTS TO TRANSIT BOARD: Commissioner Burrell moved to re-appoint Elmer Hooper and appoint Russ Bauer to two-year terms on the Transit Board. Commissioner Madden 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, G.S. 143-318.11(a)(5) Real Property and G. S. 143-318.11(a)(6) Personnel. Commissioner Crawford 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.

Chairman McMahan moved to amend the Agenda by adding a Right of Way Agreement for The Haven at Mountain Oaks and Hall/Kincaid Right of Way Deed. Commissioner Crawford seconded the Motion. Motion carried by unanimous vote.

(23) SMOKY MOUNTAIN BIOFUELS, INC. – REVOLVING LOAN: Mr. Westmoreland reported that an initial loan in the amount of \$148,000 with interest at the rate of 5%, payable in 180 equal monthly installments commencing on 12/17/2006, and collateral of equipment and processing agents has been requested and approved by the Revolving Loan Committee. Commissioner Crawford moved to approve the loan. Commissioner Madden seconded the Motion. Commissioner Cowan requested and was granted permission to abstain because of a possible conflict of interest. Motion carried.

Chairman McMahan stated that the Board of Commissioners also serves as the Revolving Loan Committee.

(24) QC APPAREL REVOLVING LOAN: Mr. Westmoreland reported that QC Apparel’s request is the restructuring of an existing loan. The balance, including interest, is now \$358,355.86; interest rate will be reduced from 5% to 3.5%; payments of \$1,200 per month for 6 months commencing on 9/17/06, followed by \$2,000 per month for 6 months, followed by \$4,000 per month for 36 months with a balloon payment on or before 9/10/2010. Further; the county would release from the deed of trust the residence

of Clemmey Queen and wife, Carley C. Queen. The collateral will be equipment, inventory and raw materials of QC Apparel operations. The loan restructuring request was approved by the Revolving Committee. Commissioner Burrell moved to approve the loan. Chairman McMahan seconded the Motion. Cowan abstained. Motion carried.

(25) THE HAVEN AT MOUNTAIN OAKS RIGHT OF WAY AGREEMENT: Mr. Holt stated that The Haven at Mountain Oaks does not have a written right-of-way from its property at the Webster Complex to the state maintained road. The right-of-way will be 22 ft. in width leading from The Haven at Mountain Oaks property to Nanny’s Lane and then to Highway 116/Webster. Commissioner Crawford moved to approve a right-of-way agreement. Commissioner Burrell seconded the Motion. Motion carried by unanimous vote.

(26) HALL/KINKAID RIGHT OF WAY DEED: Anita Hall, Alvin Kinkaid and wife, Virginia Hall, have requested a right-of-way across a triangular shaped parcel of land located at the most northerly corner of the new Scotts Creek School Property. Mr. Holt was requested to re-draft the agreement to include a provision that the right-of-way would only run with the Hall/Kinkaid’s property (Book 1429, page 780) and cannot be conveyed or assigned to adjacent properties. Chairman McMahan moved to approve the right-of-way deed. Commissioner Burrell seconded the Motion. Motion carried by unanimous vote.

There being no further business, Commissioner Crawford moved that the meeting be adjourned. Commissioner Madden 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

