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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  
JANUARY 19, 2010**

The Jackson County Board of Commissioners met in a Regular Meeting on January 10, 2010 at 6:30 p.m., 401 Grindstaff Cove Road, Room A201, Sylva, North Carolina.

Present: Brian T. McMahan, Chairman	Ken Westmoreland, County Manager
Tom Massie, Vice Chair	Evelyn B. Baker, Clerk to Board
Mark Jones, Commissioner	W. Paul Holt, Jr., County Attorney
William Shelton, Commissioner	
Joe Cowan, Commissioner	

Chairman McMahan called the meeting to order.

**AGENDA:** Commissioner Shelton moved to approve the Agenda. Commissioner Jones seconded the Motion. Motion carried.

**MINUTES:** Commissioner Massie moved to approve the Minutes of the Regular Meeting of January 4, 2010 with a correction that the name “Edd” Weatherby in paragraph (12) be corrected to read “Ed” Weatherby. Commissioner Jones seconded the Motion. Motion carried.

**CLOSED SESSION:**

Chairman McMahan stated there was a need for a closed session pursuant to G. S. 143-318.11(a)(3) Legal (Duke Energy)

**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.

**INFORMAL COMMENTS BY THE PUBLIC:**

- (a) Marie Leatherwood of Sylva read an anonymous letter she received concerning the EDC and raises given to county employees.
- (b) Sam Fowlkes of Sylva stated that only the lawyers profited from the Dillsboro Dam issue.
- (c) Susan Leveille of Sylva thanked the Board for its efforts in trying to save the Dillsboro Dam and for the additions and amendments to the Comprehensive Transportation Plan.
- (d) Emma Wertenberger of Dillsboro requested financial assistance in restoring the Monteith farmhouse and barn.
- (e) Carl Iobst of Cullowhee stated he concurred with Ms. Leveille’s comments.
- (f) Starlotte Deitz of Dillsboro thanked the Board for trying to save the Dillsboro Dam which is an icon not only Dillsboro, but for the entire county. She stated the public should know the amount of legal fees paid by Duke Energy.

- (g) Tim Parris of Dillsboro commended the Board for its considerable efforts in trying to save the Dillsboro Dam and powerhouse.
- (h) Dan Perlmutter of Dillsboro suggested the creation of a science discovery center on the base of the powerhouse which would assist students to learn science.
- (i) T. J. Walker of Dillsboro thanked the Board for its attention, intention and integrity concerning the Dillsboro Dam.

(1) **CHAIRMAN'S REPORT**: Chairman McMahan reported that a public hearing is scheduled on February 1 at 6:00 p.m. to receive public input concerning amendments to the Cashiers Commercial District Area Ordinances.

(2) **COMMISSIONERS REPORTS**: Commissioner Massie thanked the building inspections and planning departments for assistance in notifying contractors and subcontractors concerning bids for Mountain Projects jobs. He and Mr. Westmoreland attended a meeting on January 12 with NCDOT Aviation Division officials in Raleigh. They also met with Sharon Edmondson of the Local Government Commission concerning the EDC.

(3) **COUNTY MANAGER REPORT**: Mr. Westmoreland stated that the planning department is assisting the census complete count committee. He encouraged everyone to support and participate in the census process.

(3) **FINANCE & TAX COLLECTOR'S REPORTS for DECEMBER 2009 and BUDGET AMENDMENTS**: Darlene Fox, Finance Director, presented the finance and tax collector's reports for the month of December 2009 and four budget amendments. ***Motion:** Commissioner Shelton moved to approve the finance & tax collector's reports for December 2009 and four budget amendments. Commissioner Cowan seconded the motion. Motion carried by unanimous vote.*

(4) **TOWN OF WEBSTER:**

(a) **Interlocal Agreement – Administration of Ordinances**: The Town of Webster has requested that the county enter into an interlocal agreement for the administration of planning and zoning issues, building and fire inspections in addition to enforcement of the county's Wireless Telecommunications Facilities Ordinance. The town will adopt the county's fee structure. Mr. Westmoreland stated that no new personnel will be required in order to fulfill the agreement. ***Motion:** Commissioner Massie moved to approve the interlocal agreement. Commissioner Jones seconded the Motion. Motion carried by unanimous vote.*

(b) **ETJ Appointment to Town Board of Adjustment**: The Town of Webster presented a resolution, pursuant to G. S. 160A-362, requesting the county to appoint two members and an alternate to serve on the town's Board of Adjustment as representatives of the town's extra-territorial area. Appointment selection requires a public hearing. The statute also provides: "If a board of county commissioners fails to make these appointments within 90 days after receiving a resolution from the city council requesting that they be made, the city council may make them".  
Carry over.

**(5) TWSA - TREATMENT PLANT POWER LINE EASEMENT: Mr.**

Westmoreland stated that due to TWSA's expansion of its treatment plant on North River Road there was a need to relocate an existing power pole. Due to the time factor involved, he authorized moving the power pole onto adjacent county property.

***Motion:*** *Commissioner Cowan moved to ratify the 20' right of way agreement. Commissioner Shelton seconded the Motion. Motion carried by unanimous vote.*

**(6) DILLSBORO DAM:** Chairman McMahan stated that on January 11, 2010, Judge Guice entered Orders on various motions filed by the county and Duke Energy. He stated the closed session was for a conference call with the county's attorneys for a better understanding and implication of the Orders and provide alternatives and possible actions the county could consider.

***Motion:*** *Chairman McMahan moved that the Jackson County Board of Commissioners terminate all legal and administrative proceedings in both state and federal venues against Duke Energy of the Carolinas, LLC, applications for relicensing of the hydro-electric facilities on the Tuckasegee and Nantahala River basins at this time. Commissioner Shelton seconded the Motion.*

Chairman McMahan stated that he feels as strong today about his position of saving the dam as he did seven years ago; however, it is not prudent for the county to move forward any further. The only reason the county started this case was because the Board was of the opinion that 40 years was a long time for a license and privilege to produce power on the Tuckasegee River and in return Duke not give the citizens of Jackson County the consideration they should receive. The stakeholder process was flawed and should be changed so that in 40 years, the county will not have to deal with it in the same manner again. He stated that it is his hope that as the county gives up its right to appeal, Duke will likewise drop any further legal action.

Commissioner Shelton stated that as a member of the Soil & Water Commission, he had been involved in the stakeholder agreement very early on in the process. For Duke to say it is restoring a free-flowing river is questionable because to have a free-flowing river, every dam must be removed. He had anticipated the county would receive more of a settlement to be used for conservation efforts such as stream bank stabilization and restoration. He stated he hopes Duke does not take a punitive stance regarding the county.

Commissioner Cowan stated he does not understand why Duke wants to remove the dam since it does not benefit Duke in any manner and assuming it is doing the people a favor by removing the dam since they did not want it removed in the first place. Duke is permission to use public waters to earn a \$15-\$16 million per annum profit for the next 40 years. As a goodwill gesture, there should be a desire to give something back to the people especially when one calculates \$16 million times 40 - but Duke has only offered a total of about \$300,000.

Commissioner Jones stated that he agrees with Chairman McMahan and Commissioner Cowan's comments. This has been a difficult decision and he has spent countless hours meeting with Duke officials trying to resolve the issue.

Commissioner Massie stated this has been a long and sad saga. It is important that the county move forward. He stated he appreciated the time Duke officials have spent talking with county officials individually and collectively.

*Motion carried by a vote of 4-1 with Commissioner Cowan voting "no".*

(7) **AIRPORT AUTHORITY BOARD:** Carry over.

(8) **CEMETERY BOARD:** Carry over.

(9) **CASHIERS PLANNING COUNCIL:** Carry over.

(10) **BOARD OF ADJUSTMENT:**

**Motion:** *Commissioner Jones moved to appoint James S. Monteith to a 3-year term as an alternate on the Board of Adjustment. Commissioner Massie seconded the Motion. Motion carried by unanimous vote.*

(11) **WATER RESOURCES BOARD:**

**Motion:** *Commissioner Jones moved to appoint Todd Dillard to the Water Resources Board. Commissioner Massie seconded the Motion. Motion carried by unanimous vote.*

(12) **HISTORIC PRESERVATION COMMISSION:** Carry over.

There being no further business, Commissioner Cowan moved to adjourn the meeting. Commissioner Shelton seconded the Motion. Motion carried and the meeting adjourned at 9:00 p.m.

Attest:

Approved:

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Evelyn B. Baker, Clerk to Board

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Brian Thomas McMahan, Chairman