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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
DECEMBER 21, 2009**

The Jackson County Board of Commissioners met in a Regular Meeting on December 21, 2009 at 6:30 p.m., 401 Grindstaff Cove Road, Room A201, Sylva, North Carolina.

Present: Brian T. McMahan, Chairman
Tom Massie, Vice Chair
Mark Jones, Commissioner
William Shelton, Commissioner
Joe Cowan, Commissioner

Ken Westmoreland, County Manager
Evelyn B. Baker, Clerk to Board
W. Paul Holt, Jr., County Attorney

Chairman McMahan called the meeting to order.

AGENDA: Chairman McMahan amended the agenda by adding Forest Service Property Adjacent to SCC and Commissioner Massie added Highway Naming Request. Commissioner Cowan moved to approve the amended Agenda. Commissioner Massie seconded the Motion. Motion carried.

MINUTES: Commissioner Shelton moved to approve the Minutes of the Public Hearing and Regular Meeting of December 7, 2009. Commissioner Jones seconded the Motion. Motion carried.

INFORMAL COMMENTS BY THE PUBLIC:

(a) Chuck Norris, Transit Director, stated transit strives to provide safe and affordable transportation to all citizens, but must set guidelines for the safety of passengers. The internal guidelines have been approved by NCDOT and the county. All shopping bags must be placed so as not to interfere with the safe operation of the vehicle and other passengers. Due to limited space in the vehicles, passengers must be limited to the number of packages they can safely carry. Storage boxes were previously considered; however, they created problems and caused a loss of seating. He displayed an approved carry-on storage bag which has ample space for several shopping bags.

(b) Marie Leatherwood of Sylva stated her continued concerns about unresolved EDC audits.

(c) Jeanette Cabanas of Tuckasegee and on behalf of the United Neighbors of Tuckasegee requested that the county assist in: (i) the preservation of natural resources, in particular water resources, in the Cullowhee Mountain area; (ii) preservation of our history, i.e. the historic Moody homestead which would make an ideal community center for Tuckasegee, and (iii) preservation of rare and valuable farmland.

(d) Carl Iobst of Cullowhee stated that people he has talked with are not happy with actions by the county.

(e) Jim McCarthy of the Greens Creek Community and Executive Director of JAG stated that something should be done about TWSA's raw sewage spills in the Tuckasegee River.

(1) COMMISSIONERS REPORTS: Commissioner Massie stated he serves on the Mountain Projects Board which has a program to assist in the winterization of homes in Jackson and Haywood counties. TARP funds have been made available for this service, however, there are not enough Jackson County contractors registered with Mountain Projects and contractors must be brought in from other counties to do work in Jackson County. He urged local contractors to register with Mountain Projects so they can bid on the projects. It is anticipated there will be 10 projects per month in Jackson County.

(2) COUNTY MANAGER REPORT: Mr. Westmoreland commended the Emergency Management Dept. and Grounds Dept. for their outstanding work during the recent snowstorm and the Social Services Dept. who opened an emergency shelter at the Aging Facility.

Bids for the Smokey Mountain Elementary School sewer project will be opened on December 22.

The dual drawdown tests on the Nichols and McKee wells reveal they are competing with each other. TWSA's engineer states this does not appear to be a problem if the customer base is under 50 units. If the customer base exceeds that number, then a second well would need to be located. A final report for a distribution system as well as storage of water for general purposes and fire flow should be available in January.

(3) FINANCE & TAX COLLECTOR'S REPORTS for NOVEMBER 2009 and BUDGET AMENDMENT: Darlene Fox, Finance Director, presented the finance and tax collector's reports for the month of December 2009 and two budget amendments.

***Motion:** Commissioner Massie moved to approve the finance & tax collector's reports for November 2009 and two budget amendments. Commissioner Shelton seconded the motion. Motion carried by unanimous vote.*

(4) AUDIT REPORT for FISCAL YEAR ENDING 6/30/09: Mitch Crisp of Dixon Hughes PPLC presented the audit report for fiscal year ending June 30, 2009. He stated the report contains an unqualified opinion and the county is in compliance with all federal and state program requirements. The fund balance is above the state average for other comparable counties and the property tax collection percentage rate was 96.23%.

***Motion:** Commissioner Massie moved to accept the audit report. Commissioner Jones seconded the Motion. Motion carried by unanimous vote.*

(5) EDC AUDITS: Darlene Fox, Finance Director, reported:

- (a) The last year EDC was included in the single audit of Jackson County was 6/30/01.
- (b) No audit was performed for FY 6/30/02, 6/30/03, 6/30/04 or 6/30/05.
- (c) An audit for the year ending 6/30/06 was prepared by Burleson & Burleson, P.A.
- (d) An audit for the year ending 6/30/07 was prepared by GablerMolis & Company, P.A.
- (e) EDC was included in the single audit of Jackson County for FY 6/30/08 and 6/30/09.

Funding to EDC from Jackson County:	
FY 1993-2005 (last payment made to EDC by county was during FY 6/30/03)	\$ 1,493,416.38
Expenditures during FY2007-08: Economic Dev. Enterprise Fund (for JDC property purchases & expenses)	990,827.38
Less rents received	<u>- 60,816.86</u>
Total EDC expenses	\$ 2,423,426.90

FY2007-08:	
Cash transfer from EDC to county	\$ 335,505.34
Cash transfer from JDC to county	<u>192.47</u>
	\$ 335,697.81

Property tax value on 7/3/07:	
Tuckaseigee Mills	\$ 960,500.00
Clearwood	1,165,500.00
Cash transfer to county	<u>335,697.81</u>
Total returned to county	\$ 2,461,697.81

Deed of Trust from EDC to JDC in the amount of \$568,000 was cancelled on 10/8/08

Summary:	
Total EDC expense by county	\$ 2,423,426.90
Total returned to county	2,461,697.91
Received more than county spent	\$ 38,270.91

She submitted a list of deposits and expenditures for FY 2001 - 2005 taken from the EDC checkbook turned over to the county. She stated that all expenses appear to be normal economic development expenses. The county engaged the firm of GablerMolis & Company to prepare a special report concerning those years. She read a letter from GablerMolis & Company dated December 21, 2009:

“We were engaged to apply agreed-upon procedures per our engagement letter dated June 5, 2009. However, due to a lack of sufficient documentation we are unable to complete those procedures and as a result, resigned from the engagement.”

Chairman McMahan stated there are no audits for FY2001-2005. GablerMolis was requested to ascertain if it was feasible to prepare audits for those five years or in the alternative prepare financial statements. The county has been advised that it is impossible to prepare audits for those five years. EDC’s banking institution, United Community Bank, does not keep financial records past five years. Thus, copies of checks, bank statements, deposits, etc. no longer exist. The county has exhausted all avenues to locate EDC’s financial and/or banking records. It is well documented that most of the responsibility was with the EDC and during the time frame when the county was not a member of the EDC. The reality is that in cash and assets the county received \$38,270.91 more than it appropriated. No taxpayer money has been lost. The county has made every attempt possible to resolve this issue even though it was not responsible for those audits. The Local Government Commission will be informed there are insufficient financial records for the period of FY2001-2005 with which to perform audits.

Commissioner Massie stated there has been a period of 6-7 months when the county was under the assumption it would be receiving what was requested; however, by letter dated 12/21/09, GablerMolis informed the county they are unable to complete the procedures and have resigned from the engagement. The county has gone above and beyond what could reasonably be expected and there is nothing further it can do.

(6) AIRPORT: Mr. Westmoreland stated there are several positives which include: the facility has been determined by engineering analysis to be stable, a stormwater management system has been engineered and installed to safely discharge stormwater runoff; all lawsuits against the facility have been resolved, a Super AWAS and PAPI systems have been installed to improve flying safety; and the facility has an opportunity to receive some TARP funds and a low interest loan to build eight T-hangers.

Some of the negatives are: the runway lights have failed, taking away the facilities nighttime and emergency landing capabilities, the facility does not generate enough operating income to meet routine operational needs on a timely basis or to match FAA/NCDOT grant funds for capital projects, and the facility depends heavily on volunteer support for routine maintenance;

The immediate needs are: additional policy and administrative leadership, a source of local match funds in order to receive FAA/NCDOT capital improvement grants, and generate or identify sustainable sources of funds to meet routine facility maintenance.

Capital projects: replacement of runway lights in current fiscal year, a 10' expansion of the width of the runway (there could be financial support from federal or state sources for instrument landings), and only in the third fiscal year would consideration be given to T-hangars.

Greg Hall, Chairman, Airport Authority, stated his term expires on 12/31/09. Four electrical contractors have been trying to locate the lighting problems but there is no documentation on how or when the runway lights were installed. The airport needs emergency landing capabilities. He volunteered his services in an advisory capacity since he is a pilot. The By-Laws provide for six members and state statutes require 6-year terms.

Jennifer Fuller, NCDOT Aviation Division, stated DOT wants to support the airport, keep it safe and well maintained. New T-hangers are the best option for the airport to become self-sustaining.

David Peeler, W. K. Dickson, consultant engineer, stated he is a pilot and could provide his services in that capacity. He stated there is an urgency concerning runway lighting because it is a safety issue. Bids were received last Thursday. The local match for the grant is \$16,667.00. This request will be placed on the January 4 agenda.

(7) **AIRPORT AUTHORITY BOARD**: After discussion concerning Commissioners serving on the Airport Authority Board, Attorney Holt stated there could be some potential conflicts.

Motion: Commissioner Massie moved to appoint Brian McMahan, Tom Massie, William Shelton, Mark Jones and Joe Cowan to the Airport Authority Board pending Mr. Westmoreland tendering his resignation. Chairman McMahan seconded the Motion. Motion carried by a vote of 4-1 with Commissioner Shelton voting “nay”.

(8) **GREENWAY ACQUISITION RESOLUTION (R09-34)**: Commissioner Massie recommended that the resolution be amended by adding “or rights-of-way” at the end of the last sentence in Section 2.

Motion: *Commissioner Massie moved to adopt the resolution, as amended, authorizing the county manager to make property acquisitions on behalf of the county for the Tuckasegee Greenway and authorizing expenditures from the Conservation, Preservation and Recreation Special Fund (Fund 28) for those acquisitions, with stipulations. Commissioner Shelton seconded the Motion. Motion carried by unanimous vote.*

(9) **FOREST SERVICE PROPERTY ADJACENT TO SCC**: The Forest Service has vacated its property located adjacent to SCC. Attorney Holt stated the deed contained a reversionary clause in favor of the county. SCC has requested that the county waive its reversionary rights.

Motion: *Commissioner Shelton moved to waive the county’s reversionary rights contingent upon the property being conveyed to SCC. Commissioner Cowan seconded the Motion. Motion carried by unanimous vote.*

(10) **HIGHWAY NAMING REQUESTS**: A letter from DOT was submitted requesting that a segment of US 23/74 (Exit 81 to Exit 85) be named in honor of Marcellus “Buck” Buchanan. A request was also made that the bridge at the forks of the Tuckasegee River in the Tuckasegee Community be named the “T. Walter Middleton Bridge”. Resolutions concerning the requests will be considered at the next meeting.

(11) **COMPREHENSIVE TRANSPORTATION PLAN RESOLUTION (R09-33)**: Ryan Sherby, RPO Planner, submitted a revised map sheet 2. Commissioner Shelton recommended the resolution be amended by adding two paragraphs as follows: “Whereas, the Jackson County Board of Commissioners recognizes the benefits and importance of an adopted CTP in addressing the predicted future year deficiencies; and
Whereas, the “NC 107 Corridor” as notated on map sheet 2 is pending a NEPA study where a broad range of alternatives will be considered, and that the CTP can be revised or amended pending the outcome of the study.”

Motion: *Commissioner Shelton moved to adopt an amended resolution supporting the Comprehensive Transportation Plan as shown on Map Sheets numbered 1 – 5A dated October 13, 2009. Commissioner Massie seconded the Motion.*

Chairman McMahan stated adoption of the resolution does not mean that the county has endorsed or approved construction of a new highway. The county will just continue the planning process, gathering data and ascertain what alternatives are available. Commissioner Shelton stated he does not endorse a connector road and it would be better if the NEPA study was completed before it is placed on a CTP. Commissioner Massie stated he has problems with a connector because it will not reduce traffic congestion on 107, especially for local residents. Not only is a connector cost prohibitive, but also, the potential costs to the county for environmental damage, significant channeling of streams and displacement of property owners must be considered.

Motion carried by a vote of 3-2 with Commissioners Massie and Shelton voting “nay”.

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

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

(14) **BOARD OF ADJUSTMENT APPOINTMENTS:** Carry over.

(15) **WATER RESOURCES BOARD APPOINTMENTS:**

Motion: *Commissioner Massie moved to appoint Craig Green to the Water Resources Board. Chairman McMahan seconded the Motion. Motion carried by unanimous vote.*

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

(17) **PLANNING BOARD:** Carry over.

There being no further business, Commissioner Shelton moved to adjourn the meeting. Commissioner Massie seconded the Motion. Motion carried and the meeting adjourned at 9:15 p.m.

Attest:

Approved:

Evelyn B. Baker, Clerk to Board

Brian Thomas McMahan, Chairman

