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Posted By: Evelyn Baker
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**MINUTES OF A
WORK SESSION
OF THE
JACKSON COUNTY
BOARD OF COMMISSIONERS
HELD ON
JANUARY 3, 2007**

The Jackson County Board of Commissioners met in Work Session on January 3, 2007 at 5:00 pm, Justice & Administration Building, Room A201, 401 Grindstaff Cove Road, Sylva, North Carolina.

Present:

Brian T. McMahan, Chairman
Joe Cowan, Vice Chair
Mark Jones, Commissioner
Tom Massie, Commissioner
William Shelton, Commissioner
Kenneth L. Westmoreland, County Manager
Evelyn Baker, Clerk to Board

Linda Cable, Planning Coordinator
Richard Wilson, Planning Board Chair
Michael Egan, Attorney Consultant

Chairman McMahan called the meeting to order and stated that the purpose of the work session is to discuss directives and goals for the Planning Board.

(1) **ORDINANCES UNDER CONSIDERATION BY PLANNING BOARD:** Linda Cable, Planning Coordinator, reported that the Planning Board has worked, at the request of the Board of Commissioners, on the following ordinances over the past three years:

- (a) **Subdivision Ordinance:** The development of a subdivision ordinance has been underway for the past three years. The ordinance would basically regulate road construction, but could be easily amended as the need arises.
- (b) **Animal Control Ordinance:** An ordinance was drafted with assistance from the Health Dept. The Health Board has approved it in formal session and is available for the Board of Commissioners' consideration.
- (c) **Shooting Range Ordinance:** An ordinance was drafted in response to a potential shooting range in the county. The developers chose to locate a shooting range elsewhere so the need for this ordinance was no longer critical. It was submitted to the Board of Commissioners for consideration but was tabled.
- (d) **Solid Waste Ordinance:** The Planning Board worked with the Solid Waste Review Committee in development of an ordinance combining the Solid Waste Ordinance and Landfill Fee Ordinance. The delay in consideration of a new ordinance is due to the construction of a new solid waste facility in Cashiers.

(e) **Use of Public Property Ordinance**: A draft ordinance was prepared and sent to the Recreation Dept. for view, but has not been returned with comments. The ordinance concerns safety issues raised regarding dogs running loose within county parks.

(2) **ORDINANCE ACTIVITY DURING THE PAST THREE YEARS**: Ms. Cable reported that the following ordinances have been adopted and/or amended:

- (a) Cashiers Area Land Development Plan Amendments
- (b) Sediment and Erosion Control Amendments
- (c) Fire Prevention and Protection Ordinance
- (d) Jackson County Land Development Plan (this document is not a regulatory document, but does have specific goals and objectives that would be beneficial to the county).

(3) **FUTURE ORDINANCES**: Ms. Cable stated that research reveals that the county should consider the following:

(a) **Steep Slope Development Ordinance**: Due to further development up the hillsides which not only erodes the natural beauty of the mountains but creates safety concerns and environmental issues with sediment. The intent is for development to be as responsible as possible and blend with the character of the area and assure the slopes are stabilized in a manner that would not affect property owners on lower sites.

(b) **Corridor Development Ordinance**: The Planning Dept. has been giving serious thought to the development of an ordinance that would manage growth along the US 441 corridor. The construction of water and sewer lines in the Whittier area creates the opportunity for increased development in that area.

(c) **Subdivision Ordinance**: The high volume of subdivisions and increased number of lots has escalated concern about safety and environmental issues within these projects. Some of these issues are development on steep slopes, size of lots, impervious surface and mountain ridge development.

(4) **DEPARTMENT NEEDS**: Ms. Cable stated that if further regulations are adopted, the planning department will need a minimum of two additional staff for enforcement. She provided a Building Permit report for the past year. Her office issued 553 erosion control permits for lots consisting of less than one acre and 66 for more than one acre. Only 9 of the 66 were not related to a subdivision in some manner. Her office knows of at least 50 new subdivisions developed in the county and this number does not include the smaller 15-20 lot developments.

(5) **ORDINANCE DEVELOPMENT ISSUES**: Attorney Michael Egan of Hendersonville, NC, stated he has 30 years of experience in land use and environmental law. He stated he prepared a number of ordinances at the direction of the planning staff. He explained that state statutes authorize counties to adopt moratoriums; however, there are specific guidelines such as term and time limits. Moratoriums must have a clear statement of problems or conditions necessitating a moratorium, what courses of action or alternatives are not adequate to

cover the issue, etc. The moratorium must be justified and only affects future development. The absence of an ordinance could possibly be justification for a moratorium. The length of a moratorium does not have time constraints per se, but the average is a maximum of one year. A considerable amount of time will be required to develop subdivision and steep slope ordinances. The staff issue must be addressed and adoption of these two ordinances probably cannot occur until the next fiscal year.

He stated he was not aware of any legal challenges in North Carolina pertaining to steep slope ordinances and was of the opinion that it is a safe ordinance. He suggested the adoption of two ordinances that relate to each other and the subdivision ordinance would include language about the steep slope ordinance. The present soil surveys would be incorporated into the ordinances. One option could be the adoption of a very strict subdivision ordinance and/or steep slope ordinance, no moratorium, require statutory exceptions, with the stated intention of a comprehensive ordinance to take its place by a certain date.

He visited the Whittier area and was of the opinion that a Corridor Development Ordinance would be the basis for regulation as used in the ordinance for the Cashiers area. Chairman McMahan informed the Board that the sewer system for the Whittier area has an 18 month construction deadline and development is pending the availability of a sewer system

(6) COMMISSIONERS COMMENTS:

(a) Commissioner Massie stated that the land development plan is a foundation for what the county needs, the projections are accurate and projects to 2030 and it discusses steep slopes. The Board does not want to prohibit people from using their land, but at the same time it wants to make sure it is protecting their neighbors. Most developers are very conscientious of their neighbors; however, there are some that do not care about the properties below the subdivisions. The huge issues are ridge top development, steep slope developments and subdivisions that are out of control. These are timely issues that need to be addressed immediately.

He suggested that the planning board review the present environmental ordinances and ascertain if some should be strengthened, modified in some manner and not in contradiction with each other.

He suggested that the Board reach a consensus about what it wants the county to be in 20 years. This would include scheduling meetings with the Tribe and WCU since all governmental agencies directly impact the county. He suggested a clear consensus for a larger master plan for the county. If the Board wants to retain a rural character, it must focus everyone's attention on actions to preserve the rural character. The Board does not want to stop growth, but set overall policy for the county.

He stated that one of the big problems in the county is the escalating cost of houses and the impact on property owners; citizens need tax relief and there are some means through ordinances by which the county can provide tax relief such as rural protection area. The purpose would be to retain the rural character of the area like the farmland preservation program, timberlands program, agricultural lands, etc. and lock in a tax basis. Mr. Egan stated he would need to do further research on how to address that issue.

(b) Chairman McMahan stated that a ridge top protection ordinance from the state level is operative and the county adheres to it; however it does not have design guidelines nor does it address all ridge tops. Mr. Egan recommended developing a new ridge top protection ordinance since it appears to be a critical issue. He asked Mr. Egan if a subdivision ordinance would not be a type of zoning but a corridor development ordinance would be. Mr. Egan responded that the

draft subdivision ordinance is more comprehensive than a typical subdivision ordinance and regulations do affect properties but is a far cry from zoning.

(c) Commissioner Jones asked if funds were available for additional planning department staff. Chairman McMahan responded that the Board must first ascertain there is a need. Mr. Westmoreland stated there are a number of options – such as the cell tower ordinance that requires developers to work through professional engineers or technical service to verify that the requirements of the ordinance have been met rather than the county hiring additional employees for enforcement. A steep slope ordinance would be very similar and is basically a comprehensive review by a geologist or civil engineer which can be done through the private sector. Mr. Egan stated that an ordinance must specify who will be administering it and a steep slope ordinance must provide for a board of adjustment which could be the planning board.

(d) Commissioner Shelton stated that the Board needs to protect the county, create jobs, provide tax relief, and protect the environment; however, the public does not want zoning. He stated he was not in favor of countywide zoning. He stated he was not anti-growth but pro-sustainability. He asked what is the difference between a host of ordinances/regulations and zoning. Mr. Egan responded there is a big difference - most subdivision regulations require standardized roads, identification of lots, basic requirements and has very little to do with zoning. Commissioner Shelton recommended that the EDC be included as a part of any comprehensive plan.

(7) RECOMMENDATIONS:

(a) Commissioner Shelton recommended that the planning board be directed to draft a subdivision and steep slope ordinances and that the number of planning board members be increased from 7 to 11.

(b) Commissioner Massie recommended drafting subdivision, steep slope, and corridor development ordinances and have them ready for adoption by the end of this calendar year. He stated the drafting of three separate ordinances may require the planning board to appoint task forces, under its direction, to work on the three separate ordinances. He recommended the number of planning board members be increased from 7 to 11, that the four new members be at-large and includes representatives of the interests that would be affected, i.e., real estate, home builders, developers, contractors, etc.

(c) Commissioner Jones recommended that the steep slope ordinance include ridge top protection.

(d) Commissioner Cowan stated he concurred with the recommendations of the other Commissioners.

(8) DIRECTIVES TO PLANNING BOARD: Attorney Egan stated that all ordinances that address land use issues must first be approved by the planning board before they can be submitted to the Commissioners for consideration.

The Board, by consensus, directed the planning board to:

- (a) draft a subdivision ordinance (December 2007 adoption deadline);
- (b) draft a steep slope ordinance that incorporates ridge top protection (December 2007 adoption deadline);
- (c) draft a US 441 (Whittier area) corridor development ordinance (December 2007 adoption deadline);

- (d) draft revised planning board by-laws, for presentation at the first February 2007 Board of Commissioners meeting, increasing the number of planning board members from 7 to 11; and,
- (e) schedule a work session with Board of Commissioners in March.

(9) **WORK SESSION – SOCIAL SERVICES DEPT.:** By consensus, the Board scheduled a work session with the Social Services Department at its offices on January 17th at 8:30 a.m.

There being no further business, Commissioner Massie moved that the meeting be adjourned. Commissioner Shelton seconded the Motion. Motion carried and the meeting adjourned at 7:15 p.m.

Evelyn B. Baker, Clerk

Brian Thomas McMahan, Chairman