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Posted By: Evelyn Baker
Witnessed By: _____

**MINUTES OF THE REGULAR MEETING
OF THE JACKSON COUNTY
BOARD OF COMMISSIONERS
HELD ON
FEBRUARY 5, 2007**

The Jackson County Board of Commissioners met in Regular Session on February 5, 2007, at 6:00 p.m., 401 Grindstaff Cove Road, Room A201, Sylva, North Carolina.

Present: Brian T. McMahan, Chairman
Joe Cowan, Vice Chair
Tom Massie, Commissioner
William Shelton, Commissioner
Mark Jones, 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 Land Development Permit Ordinance, Establishment of Vested Rights Ordinance, and Appointment of Vested Rights Advisory Committee. Commissioner Shelton moved to approve the amended Agenda. Commissioner Jones seconded the Motion. Motion carried.

MINUTES: Commissioner Massie moved to approve the Minutes of the Special Meeting of January 17, 2007 and Minutes of the Regular Meeting of January 23, 2007. Commissioner Cowan seconded the Motion. Motion carried.

INFORMAL COMMENTS BY THE PUBLIC:

Louis Spagna of Cullowhee stated that steep slope and development issues should be addressed as well as escalating taxes.

Bob Martin of Glenville stated that a moratorium would have a domino affect to the communities, developers and the general public. Creating jobs is more important than losing jobs. The environment must be protected.

Bill Kruckenberger of Cashiers stated that instead of imposing a moratorium an ordinance should be drafted.

Jim McCarthy of Dillsboro stated that he agrees with a moratorium. As a Friends of the Library member, he prefers the old courthouse rather than Jackson Plaza as the site for a new library. He suggested that the Economic Development Commission be changed to "Economic Enrichment Board" and before new by-laws are approved, a time frame moratorium should be imposed until all organizations under its direction are compliant with the laws.

Bill Coward, attorney, of Cashiers stated that alternatives to a moratorium should be considered. The county should enforce the present watershed regulations. The draft moratorium should contain a schedule with definite dates so the public can ascertain if they are reasonable time periods rather than just stating six months because it should not take six months to draft an ordinance.

James McManus of Sylva stated that a moratorium will harm the county. He is involved with two small developments and if work is required to stop for at least six months the equipment operators and workers already on site will be out of jobs.

John Ashcraft of Sylva stated that the people who will be affected by a moratorium includes advertising agencies, architects, air conditioning and heating contractors, appliance stores, banks and lenders, carpenters, contractors, roofers, real estate agents, surveyors, property attorneys, families and other investors who are counting on being able to sell their land, etc. If all of those companies and employees are effectively denied the ability to build new neighborhoods, it will cause a negative economic impact to the county. A moratorium is a drastic action and the rights of private property owners should be considered.

Kathy Calabrese of Whittier stated she supported, in theory, a moratorium.

Scott Rooth of Cashiers stated that a moratorium and possibly an ordinance is a huge issue. The county is not a manufacturing county and will not attract high tech industries. Jobs come from tourism and second home development. The draft moratorium is very vague and needs further consideration. A six month moratorium will have an economic impact to a potential developer.

Mike Clark of Cullowhee asked for an explanation of paragraph VI (4) of the draft moratorium. The moratorium issue was only raised about three weeks ago and now citizens must “jump through hoops” in order to record plats. He stated that the procedure being used concerning a moratorium appears to be an abuse of authority.

Susan Anspader of Sylva stated that she is the administrator of the Watershed Association of the Tuckasegee River. There appears to be few rules to prevent development on fragile, highly erodible lands, building on ridgelines and on the edge of streams. The county needs good rules and enforcement. WATR is interested in helping protect the county’s resources and supports a moratorium. Regulations and moratoriums achieve both growth and environmental protection.

Marti Senterfit of Cashiers stated there needs to be some level of control and supports a subdivision ordinance. If a moratorium is what is required to prevent further damage, she supports it.

Ethan Staats of Cashiers urged the Board to expeditiously adopt legislation that will restrict building on ridges and dangerous slopes and destroy the environment.

Steve Pierson of Highlands stated that his property is located in Jackson County but is regulated by the Town of Highlands and a moratorium on his property is not necessary.

Mary Jo Cobb of Tuckasegee stated she is concerned about contamination and impact on streams, lakes and the Tuckasegee River from run-offs of chemicals used in the development of golf courses.

Marty Jones of Cashiers stated that a subdivision ordinance and a moratorium are completely different. The property tax implication should also be taken into consideration and jobs will be lost that depend on development. The impact to affordable

housing should be taken into consideration because if supply is limited then the price of existing homes will increase. He requested that the requirements of Senate Bill 814 be addressed.

Sam Lupas of Cashiers stated that the issues of soil and erosion control are part of the problem and suggested that additional erosion control officers be hired. He stated he is opposed to a moratorium, but would support some subdivision regulations.

Zac Koenig of Cashiers stated he is a builder and offered his services to the planning board.

James Woodham of Cashiers stated that development takes a very long time to come to fruition and he has spent almost two years complying with all the state, federal and Army Corps of Engineers regulations. To impose a moratorium would be harmful and a financial disaster. A moratorium is punitive for those who do things right as well as those who do not.

Bill Lyons of Cullowhee stated that six months may not be long enough to develop a subdivision ordinance.

Greg Ward of Cashiers stated he supports a subdivision regulation; however, there is no need for a moratorium and urged the Board to draft a subdivision ordinance and not schedule a public hearing concerning a moratorium.

Eddie Palmer, realtor, of Sylva stated he did not want Jackson County to look like Eagle's Nest in Haywood County, but is opposed to a moratorium.

Jeanette Cabanis of East LaPorte stated she supports a moratorium; however, the emergency for a moratorium was a year or more ago. Most people in the county are not worried about small development on family lands but the bigger developments. There is also the loss of recreational opportunities around the various lakes due to development in addition to contamination of the Tuckasegee River by a 3,500-acre development at its headwaters.

(1) FINANCE & TAX COLLECTOR REPORTS FOR JANUARY 2007:

Darlene Fox, Finance Director, presented the following highlights:

<u>General Fund Revenues Collected to Date</u>	<u>\$ 30,723,461.00</u>
<u>General Fund Expenditures to Date</u>	<u>\$ 25,064,498.00</u>
<u>Ad Valorem Tax Collected</u>	<u>\$ 20,636,128.00</u>
<u>Motor Vehicle Tax Collected</u>	<u>\$ 501,172.00</u>
<u>Sales & Use Tax for November 2006</u>	<u>\$ 993,344.00</u>
<u>National Forest Timber Receipts</u>	<u>\$ 61,109.00</u>
<u>Landfill Disposal Fees</u>	<u>\$ 1,092,102.00</u>
<u>Contingency Balance</u>	<u>\$ 23,192.00</u>

(2) BUDGET AMENDMENTS:

<u>General Fund</u>	<u>\$ 100,777.05</u>
<u>Health Dept.</u>	<u>\$ 40,585.70</u>
<u>Hurricane Stream Restoration Project</u>	<u>\$ 289,905.00</u>

(3) CHAIRMAN'S REPORT: Chairman McMahan stated:

- (a) An operating expense budget work session is scheduled on February 22 at 6:30 pm.
- (b) He requested that the first meeting in March be changed to March 8th because he will be at the NACo conference the first week of March. By consensus, the Board agreed to the date change.
- (c) A joint budget work session with the Board of Education will be scheduled in March.

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

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

(6) **GREEN ENERGY PARK:** Timm Muth, Director, reported that the Jackson County Green Energy Park, out of 120 landfill projects nationwide, was awarded the 2006 Project of the Year Award by the U. S. Environmental Protection Agency Landfill Methane Outreach Program. This award elevates the county to a national level.

(7) **PLANNING BOARD ORDINANCE AMENDMENTS:** The proposed amendments are:

Section 2 (A): increase the number of members from 7 to 11 with the four additional members being appointed at large by the Board of Commissioners;

Section 2(C): establishes terms for new appointments;

Section 3: regular meetings shall be held at least once per month;

Section 3(B): establishes a quorum as six members.

A Public Hearing was held on February 5th at 5:30 p.m. and no objections were raised. Chairman McMahan suspended the rules and Commissioner Massie moved to adopt the amendments to the Ordinance Authorizing a Planning Board. Commissioner Jones seconded the Motion. Motion carried by unanimous vote.

(8) **441 CORRIDOR COMMERCIAL DEVELOPMENT MORATORIUM:**
Carry over.

(9) **SUBDIVISION DEVELOPMENT MORATORIUM:** The general statutes require that an ordinance must be developed before the matter can be discussed and hold a public hearing. Because the Board only received a copy of the draft ordinance over the weekend and the public not having sufficient time to review same, Mr. Westmoreland was directed to schedule a press conference to insure that the general public knows what the document does and does not state, its purpose, who is exempt, what is considered a vested rights, on-going subdivisions, etc.

Mr. Holt stated that the draft ordinance must remain as is until after the public hearing and can only be modified after a public hearing.

Commissioner Massie stated that the purpose of paragraph four of the draft ordinance is to avoid overwhelming the county's mapping and recording offices as happened recently in Buncombe County. He explained that the draft moratorium will be in effect upon the scheduling of a public hearing and will remain in effect unless terminated or amended after the public hearing. Only recording plats for new subdivisions will be delayed prior to a public hearing. An existing subdivision and single family residences will not be affected in any manner. If the planning board can expedite an ordinance within a lesser time period, then the moratorium can be terminated. Subdivision plats that were recorded as of today (February 5, 2007) are exempt.

Chairman McMahan stated he prefers to amend the draft moratorium so that it will not take effect until after the public hearing and is adopted by the Board. He stated he does not agree that just the scheduling of a public hearing should put the moratorium

into effect because the general public has not had sufficient time to review the document. He stated he not opposed to scheduling a public hearing to allow the general public to make comments concerning the proposed moratorium.

Commissioner Shelton stated that the “findings of fact” as stated in the draft moratorium describes the type of growth the county is experiencing. He stated his goal is not to over-regulate, but find a balance, lend some sustainability and common sense to future development since the population density is increasing at a rapid pace.

Commissioner Shelton moved to schedule a Public Hearing concerning a proposed moratorium on the creation of certain subdivisions in Jackson County on February 27, 6:00 pm in Courtroom One. Commissioner Cowan seconded the Motion. Motion carried by a vote of 4-1 with Chairman McMahan voting “nay”.

(10) REVIEW OFFICERS RESOLUTION (R07-02): Pursuant to statutory requirements, Bobby McMahan, Tax Administrator, recommended that Amanda Buchanan, Kevin Jamison, Kim McClure, Bobby McMahan, Suzie Nicholson, Ramona Powell, and Wendy Smith, all employees in his department, be appointed Review Officers. At the request of the Tax Administrator, Chairman McMahan suspended the rules and Commissioner Massie moved to approve the recommendations. Commissioner Jones seconded the Motion. Motion carried by unanimous vote.

(11) DOT SECONDARY ROADS RESOLUTION (R07-03): A Public Hearing was held on February 5, 2007 at 5:30 pm. No objections were raised. At the request of DOT, Chairman McMahan suspended the rules and Commissioner Cowan moved to adopt the Resolution for the Secondary Roads Program for Fiscal Year 2007. Commissioner Shelton seconded the Motion. Motion carried by unanimous vote.

(12) LAND DEVELOPMENT PERMIT ORDINANCE: Mr. Westmoreland stated that this ordinance requires that all development activities must initially secure a permit through the planning department before further actions take place in pursuit of a development. There will be no charge for the permit and is a review process by the planning staff to determine the number of subdivisions within the county.

Commissioner Cowan moved to schedule a Public Hearing concerning a proposed Land Development Permit Ordinance on February 27, 2007, 6:00 pm in Courtroom One. Commissioner Jones seconded the Motion. Motion carried by unanimous vote.

(13) ORDINANCE ESTABLISHING a PROCESS FOR THE ESTABLISHMENT OF VESTED RIGHTS: Mr. Westmoreland stated that a Vested Rights Advisory Committee, composed of professionals, will advise and assist the planning staff in making determinations of vested rights pursuant to the ordinance.

Commissioner Cowan moved to schedule a Public Hearing concerning a proposed Ordinance Establishing a Process for the Establishment of Vested Rights on February 27, 2007, 6:00 pm in Courtroom One. Commissioner Jones seconded the Motion. Motion carried by unanimous vote.

(14) PLANNING BOARD APPOINTMENTS: In order to expedite work with the planning board on several ordinances, Chairman McMahan suspended the rules and Commissioner Massie recommended Glenna Buchanan to represent District Two. Commissioner Shelton recommended Kim Cowan to represent District One.

Commissioner Cowan moved to appoint Glenna Buchanan to fill the unexpired term of Bob Ginn, Kim Cowan to fill the unexpired term of Ira Jones, Wayne Cobb and Bob Carpenter to two year terms and Zac Koenig and Dan Pittillo to one year terms on the Planning Board. Commissioner Jones seconded the Motion. Motion carried by unanimous vote.

(15) CEMETERY BOARD APPOINTMENT: Carry over.

(16) AIRPORT AUTHORITY APPOINTMENT: Carry over.

(17) VESTED RIGHTS ADVISORY COMMITTEE: Carry over pending the adoption of the moratorium. Commissioner Massie suggested that the committee be comprised of professionals with an expertise in either the building industry, subdivisions, and steep-slopes, and are professionals who can make impartial decisions of what is or is not a vested right as defined in the ordinance such as an attorney who can interpret the law, an engineer or surveyor, and perhaps a generally interested citizen without any particular qualification.

Commissioner Shelton moved that the Board go into Closed Session pursuant to G. S. 143-318.11(a)(5) Real Property, Commissioner Cowan 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, Chairman Shelton moved that the meeting be adjourned. Commissioner Jones seconded the Motion. Motion carried and the meeting adjourned at 9:45 p.m.

Attested By:

Evelyn B. Baker, Clerk

Approved:

Brian Thomas McMahan, Chairman

