

Posted: _____
Time Posted: _____
Posted By: Evelyn Baker
Witnessed By: _____

**MINUTES OF THE REGULAR MEETING
OF THE JACKSON COUNTY
BOARD OF COMMISSIONERS
HELD ON
APRIL 7, 2008**

The Jackson County Board of Commissioners met in a Regular Meeting on April 7, 2008, at 6:00 p.m., 401 Grindstaff Cove Road, Room A201, Sylva, North Carolina.

Present: Brian McMahan, Chairman
Joe Cowan, Vice Chair
Tom Massie, Commissioner
William Shelton, Commissioner
Kenneth L. Westmoreland, Co. Mgr.
W. Paul Holt, Jr., County Attorney
Evelyn B. Baker, Clerk to the Board

Chairman McMahan called the meeting to order.

AGENDA: Chairman McMahan added CJPP Board appointment, Commissioner Massie added Farmland Preservation Ordinance and Revaluation. Commissioner Jones moved to approve the amended Agenda. Commissioner Massie seconded the Motion. Motion carried.

MINUTES: Commissioner Massie moved to approve the Minutes of the Regular Meeting of March 17, 2008. Commissioner Shelton seconded the Motion. Motion carried.

INFORMAL COMMENTS BY THE PUBLIC:

(a) Mary Jo Cobb stated the golf course and 800 homes planned for the Legasus Webster Creek Development will impact all the streams located in the area as well as the watershed on both sides of Cullowhee Mountain. She stated she was concerned that Legasus was granted common law vested rights for all of its developments; however, money invested in one area should not automatically allow them to develop in another area. It is not under the same umbrella and each location should have its own environmental needs addressed. She stated it appears there is a conflict of interest for Jay Coward to serve on the Vested Rights committee because he represents Legasus. She requested that the Board overturn the decision by the Planning Dept. approving Legasus' vested rights for all of its developments.

(b) Gary Wein, Executive Director of the Highlands-Cashiers Land Trust, congratulated the Board for winning the 2007 Government Conservation Partner of the Year Award and stated "Jackson County's laws have served as a model for nearby counties and state government as they cope with development in threatened areas".

(c) Nick Henry, Magistrate, stated the Animal Control Ordinance needs some clarification: Section 16 states: "Any aggrieved party may appear before a magistrate and have the necessary papers issued for violation of any provision of this Ordinance without an investigation by Animal Control". He stated this creates potential problems. Magistrates have previously relied upon animal control officers to investigate complaints prior to instituting criminal action. It appears that any animal can be deemed a nuisance pursuant to the "Nuisance Animals" definition because there is no definition of "harassment" and does not state the animal must be off the owner's property.

(d) Jeanette Cabanis requested that the “United Neighbors of Tuckaseegee” be provided a detailed report of what investment evidence was presented by Legasus when it applied for vested rights and whether the claims of investment were independently verified and, if so, by whom. The developments do not share boundaries or amenities. Legasus has suggested it would cooperatively draft a Development Agreement, but no time table was set. Thus, Legasus is not bound by the ordinances or its own agreement.

(e) T. J. Walker stated that the spring issue of *Smoky Mountain Living* magazine contains two feature articles on trout fishing in the mountains. Fishing at the Dillsboro Dam is prevalent in April, May and June. He urged the county to be persistent and consistent with the vision of enhancing its water resources and the dam. He stated that discussions are underway for a fishing and paddling park in Dillsboro,

(1) CHAIRMAN’S REPORT: Chairman McMahan reminded the Board of the NCACC District Meeting in Waynesville on April 10.

(2) COMMISSIONERS REPORTS: Commissioner Massie asked if the documentation presented by Legasus is public information. He stated that Attorney Jay Coward would have recused himself if Legasus had appealed to the Vested Rights Advisory Committee. He recommended that the Board support House Bill 1889 which provides property tax relief for qualifying private wildlife conservation land which would enable property owners to lock in their present-use values.

(3) COUNTY MANAGER REPORT: Mr. Westmoreland stated he could not answer that all of Legasus’ documentation is public information, some may be proprietary; however, all information was reviewed by special counsel, Michael Egan, to ascertain if Legasus was entitled to vested rights, not Attorney Jay Coward. Legasus was granted vested rights through the administrative review process and thus it was never presented to the Vested Rights Advisory Committee. The Vested Rights Advisory Committee serves as an appeal body to a developer who has been denied vested rights. Mr. Westmoreland stated that he had met on at least two occasions with representatives of Legasus who stated they will have a draft development agreement for the Planning Board’s review within a month. The Planning Board will conduct a public hearing before it makes a recommendation to the Board of Commissioners. The Commissioners will conduct another public hearing before a proposed development agreement ordinance with Legasus can be considered for adoption.

(4) FINANCE & TAX COLLECTOR REPORTS FOR MARCH 2008 and BUDGET AMENDMENTS: Carry over.

(5) LIBRARY FUNDRAISING REPORT: Wilson Steel of Sims & Steele Consulting presented a written report containing recommendations and conclusions concerning fundraising feasibility for the new library. A total of 59 interviews representing 72 interview participants were held. The study indicates that a minimum of \$1 million can be raised and \$1.5 million is possible. The report suggests that the community public phase of the fundraising effort not begin until the construction contract is awarded. The report recommends that the Friends of the Library and Library Board proceed with plans for a countywide capital campaign to raise funds towards the overall furnishing and equipment budget for the project.

(6) **SYLVA FIRE DEPT**: Chief Mike Beck presented proposed development plans for expansion of the fire station which includes an elevator to a second floor which will be used for offices, bunks, kitchen, bathrooms, and meeting room. The expansion would include four new truck bays. The total estimated cost, inclusive of design and engineering fees, is \$1,886,939. He requested that the county assist with loan payments. Jay Denton, Town Manager, stated the Town of Sylva would borrow the funds, but will not move forward until the county adopts its budget.

(7) **CULLOWHEE FIRE DEPT**: Chief Richard Frady stated the fire station needs to be expanded. He requested a long-term lease for the 7.3 acres in order to obtain grants to assist in building a new fire station. WCU has offered to exchange the grassy field property located to the left of the fire station for the wooded area across Long Branch behind the fire station. The Cullowhee SRC would not be affected by an expansion. Chief Frady stated the fire station roof is leaking and must be replaced immediately. Mr. Westmoreland was directed to begin negotiations with WCU concerning a property exchange.

(8) **ENVIRONMENTAL CREDIT CORP**: Carry over.

(9) **RECREATION DEPT**: Jeff Carpenter, Recreation Director, requested permission to display fireworks on the Historic Courthouse lawn and at Cashiers Community Park on July 4. The department will be using the professional firm of Melrose Pyrotechnics. Chairman McMahan suspended the rules and Commissioner Cowan moved to permit the request. Commissioner Jones seconded the Motion. Motion carried by unanimous vote.

(10) **WOLF CREEK BAPTIST CHURCH**: Wolf Creek Baptist Church requested permission to lease the old Canada Community Building located on Hwy. 281 for a fellowship hall. The Church will be responsible, at its expense, for all repairs and replacements in exchange for a 50-year lease. Chairman McMahan suspended the rules and Commissioner Jones moved to ratify the Lease. Chairman McMahan seconded the Motion. Commissioner Massie stated he is concerned about leasing public property to a religious entity especially for a term of 50-years. Chairman McMahan stated the Church will need to spend approximately \$100,000 in repairs and that is why they want a 50-year lease to recoup its investment. Motion carried by unanimous vote.

(11) **AUDIT CONTRACT**: Dixon Hughes PLLC submitted a contract and engagement letter for the audit period beginning July 1, 2007 and ending June 30, 2008. The audit fee is \$59,900. Chairman McMahan suspended the rules and Commissioner Cowan moved to approve the contract. Commissioner Massie seconded the Motion. Motion carried by unanimous vote.

(12) RESOLUTION CELEBRATING 100 YEARS – NCACC: The North Carolina Association of County Commissioners requested that all counties adopt a joint resolution in recognition of the association’s centennial. Chairman McMahan suspended the rules and Commissioner Cowan moved to adopt the Resolution. Commissioner Shelton seconded the Motion. Motion carried by unanimous vote.

(13) TRANSPORTATION BOARD APPOINTMENT: Carry over.

(14) CRIMINAL JUSTICE PARTNERSHIP PROGRAM: Mr. Westmoreland stated that Judge Letts recommended that Attorney Nathan Yearwood be appointed to the CJPP Board. Chairman McMahan suspended the rules and Chairman McMahan moved to appoint Nathan Yearwood as an at-large member to the CJPP Board. Commissioner Massie seconded the Motion. Motion carried by unanimous vote.

(15) FARMLAND PRESERVATION (“VOLUNTARY/ENHANCED VOLUNTARY AGRICULTURAL DISTRICT ORDINANCE”): Commissioner Massie requested that a public hearing be scheduled on May 5, 2008 at 5:00 p.m. A copy of the proposed ordinance can be obtained at the Planning Dept. or on line at www.jacksonnc.org.

(16) REVALUATION: Commissioner Massie emphasized there is an appeals process concerning revaluations. Property owners with concerns should request an informal appeal prior to a formal appeal to the Board of Equalization & Review. Comparables are available on line or the Tax Assessor’s staff will assist in locating comparables. Jackson County has one of the lowest tax rates in the state and the Board will make a strong effort to reduce the millage rate as low as possible. The date for appeals is 30 days from the date of the notice, i.e., March 17; however, many property owners did not receive the notice in a timely fashion. He recommended that the Tax Assessor meet with the press and explain how the revaluation process works and what assistance is available from the county so accurate information can be conveyed to the public via the media, or, in the alternative, the county may want to purchase ads.

Commissioner Cowan stated that the real problem with revaluation is state legislation and there should be some relief for property owners on fixed incomes. The values cannot continue to be raised using the present formula as outlined in the Machinery Act.

Commissioner Shelton stated the present system may work in regions where there are normal property values; however, having Jackson County’s entire property tax being based on the market when the county has a low median income does not appear to be a fair system.

Commissioner Massie suggested that the NCACC be requested to overhaul the Machinery Act.

MOTION: Commissioner Jones moved to extend the informal appeals deadline to April 30, 2008. Commissioner Massie seconded the Motion. Motion carried by unanimous vote.

Chairman McMahan moved that the Board go into closed session pursuant to G. S. 143-318.11(a)(6) Personnel, G. S. 143-318-11(a)(4) Business Expansion and G. S. 143-318.11(a)(3) Legal (Balsam Mtn Preserve). Commissioner Shelton seconded the Motion. Motion carried.

Chairman McMahan called the open session back to order and reported that he recused himself from the Closed Session while Balsam Mountain Preserve was being discussed. No action or votes were taken in closed session.

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

Attest:

Approved:

Evelyn B. Baker, Clerk

Brian Thomas McMahan, Chairman

