

**MINUTES OF A
REGULAR MEETING
OF THE JACKSON COUNTY
BOARD OF COMMISSIONERS
HELD ON
NOVEMBER 02, 2021**

The Jackson County Board of Commissioners met in a Regular Session on November 02, 2021, 6:00 p.m., Justice and Administration Building, Room A201, 401 Grindstaff Cove Road, Sylva, North Carolina.

Present: Brian McMahan, Chairman
Boyce Deitz, Vice Chair
Mark Jones, Commissioner
Tom Stribling, Commissioner
Gayle Woody, Commissioner

Don Adams, County Manager
Heather C. Baker, County Attorney
Angela M. Winchester, Clerk to Board

Chairman McMahan called the meeting to order.

(1) **AGENDA**: Commissioner Woody moved to approve the agenda. Commissioner Stribling seconded the Motion. Motion carried.

(2) **MINUTES**: Commissioner Stribling moved to approve the minutes of a Work Session of October 12, 2021 and a Regular Meeting of October 19, 2021, as presented. Commissioner Woody seconded the Motion. Motion carried.

(3) **CHAIRMAN'S REPORT**: Chairman McMahan reported that he, along with the County Manager, attended the Vaya County Commissioner Advisory Board meeting. At the Board's last meeting, he highlighted the ongoing process of Vaya working to absorb additional counties from the Cardinal System. This was the first meeting with those counties to go over some of the framework and to continue the discussion about how the regional boards and the new Vaya Board would be structured. The Board would look to place a resolution on a future agenda for review and discuss Board for appointments.

Also, he wanted to recognize achievements made by students in the school system. The Men's Soccer team made it to the playoffs, but unfortunately, they did not proceed forward with a loss in the first round of the state playoffs. He congratulated them on that achievement and a great season. He congratulated the Smoky Mountain High School Band for several awards won and they placed very well in several regional competitions. Also, the Cross Country Men's and Women's teams both qualified for state, which was a great achievement. Finally, the Smoky Mountain High School Football team would be hosting a playoff game Friday night against Hickory. These were a lot of great achievements.

(4) **COMMISSIONER REPORTS**:

(a) Commissioner Stribling reported he had a lot of people that complained about their cellular service. He encouraged them to contact their provider. When they took down the Scott Building at WCU, it knocked a lot of people out of service. Also, he had one complaint about the traffic flow at Bojangles.

Chairman McMahan stated that was located in the Town of Sylva. Also, the citizen may want to contact NCDOT to share their concerns.

(b) Commissioner Woody shared pictures with the Board of the Greenway. She was walking there that day and it was so beautiful. So many people were taking advantage of the different areas to walk in the county. She served as an Ex-Officio Member on the Greenway Committee and they were working very hard to expand the Greenway. The Committee also had great ideas about getting out maps that would be helpful for citizens to locate walking trails in the county. She encouraged all citizens to get out and enjoy the beauty as they were all so blessed to live in this beautiful area of God's creation. The county was working hard to give access to as many citizens as possible.

(c) Commissioner Deitz stated he had the opportunity to speak at length with Dr. Dana Ayers, School Superintendent. Maybe they could discuss this at a future work session. They were having issues with having enough custodians, lunchroom workers and bus drivers. This was a problem that he did not have the solution for, but he thought it would be good for the Board of Commissioners to get together with the schools to see if they could figure out a way the county could help them in some way with this problem. He knew there was a huge problem in the entire country with a labor shortage. This came down to safety for the kids, so he hoped they could look at that in the very near future.

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

(6) **INFORMAL COMMENTS BY THE PUBLIC:** Edward Thurston stated that he wanted to address the building plans for the walls that were going to be put around the schools. He attended Scott's Creek, graduated from Smoky Mountain High School and served in the army for nine and a half years. During that time, he spent countless hours of security training with several certifications. A few years back, the student body requested a meeting with the Board of Commissioners and the School Board and had three requests: more counselors, more school resource officers on campus and single entry way at schools. He expressed his concerns with walling in students inside a school. Counselors and officers were the most recommended assets to have on campus during an in-school shooting. That, coupled with clear protocols that were known and rehearsed by staff and students were core things that could be done to prevent an incident and reduce the chance of mass casualties. He took issue with the walling in of campuses and believed it would not increase the safety of children in them, but would actually lessen their safety. Also, the cost-benefit ratio did not make sense to him. Since 2006 to present, there had been three shooting deaths that could be attributed to school shootings in North Carolina.

(7) **UNIFIED DEVELOPMENT ORDINANCE AMENDMENTS:** Mr. Poston stated that they held the fifth and final public hearing on the ordinance the state statutes required as part of the consideration process. This came back to the Commissioners to adopt the amendments as proposed or to make modifications. The position of staff remained that they recommended the amendments as they were presented to all of the boards.

In reference to the Cashiers amendments, staff still recommended making those changes, even though they were working with that community on updating those regulations. The reason would be that his determination would be the same, that there was an error in the graphic. When this came before the Cashiers Planning Council, staff's determination was there was no maximum, but there was a threshold, which required a special use permit. The special use permit had standards that had a staff review of the technical issues. Then, the board or council had a set of standards they had to go through, line by line and produce findings of fact that those standards had been met based on the evidence that were presented.

One of those standards would deal with size, bulk and conformity of a building or development within the Cashiers area. Also, there were legal issues with the 5000 graphic remaining as his determination had not changed, so it did produce points of conflict. There had never been a building size maximum and staff had never recognized a maximum building size in Cashiers prior to the UDO or after.

The Cashiers Planning Council requested staff to present at their November meeting, a set of near-term standards they could add to the ordinance while waiting on ULI to come in January and begin its process. Staff was guiding the process to include updates with requirements for a special use permit application, floor area ratios and others. They wanted to bring back a request to the Board to update the entire ordinance because the Cashiers of 2003 no longer existed. They believed there were some things they could do to strengthen information they were getting to evaluate some of the projects.

Commissioner Jones asked if the Planning Board voted unanimously?

Mr. Poston stated yes and presented all four Consistency Statements to the Board for review.

Commissioner Deitz stated there was public comment during the public hearing. From Mr. Poston's understanding, what was her request?

Mr. Poston stated that they were concerned about large scale development being allowed to proceed with an application and wanted to keep the error in the graphic to try and show there may be a building size maximum. The maximum building size would prevent larger scale development from happening until the Council had an opportunity to discuss what changes may occur in the near-term, as they weighed potential longer term solutions to be put in place.

Mr. Adams stated that in the ordinance, there was an illustration that stated a potential maximum building size of 5000 allowable to be built. Staff and Legal Counsel, as well as the consultant who helped draft the UDO, have said the "5000" was an error and that it was never intended to be there and had never been enforced. It had been advised by Legal Counsel to be removed. There was a group of citizens in Cashiers that believed the error provided some level of protection from a developer coming in over the next few months and applying for a permit for something more than 5,000 square feet. Staff and Legal say it never existed in the first place.

If the Board did not take action and an application came in for over 5,000 square feet, it would go through the process and eventually end up at a quasi-judicial hearing. A quasi-judicial hearing was about process and protecting everyone's procedural rights. Legal advised that this caused potential legal confusion and liability to the county.

Ms. Baker stated that leaving the error in was a liability. It would mean that when a quasi-judicial hearing was held, if it was denied based on this, the developer would have action against the county. If it was not denied and was approved, a party with standing could have potential action against the county. The way the quasi-judicial statutes were written, it also came with attorney fees as a liability for the county, so there was a chance the county could be responsible for all attorney fees involved as well.

From the liability standpoint, this was clearly an error. The consultant that drafted the ordinance stated it was an error. They tried to fix the graphic, but it was not successful. It needed to be removed so they could move on and the Planning Staff could apply the ordinance correctly.

Mr. Poston stated that staff believed the ordinance presented was consistent with adopted plans. A public hearing was held prior to the meeting with public comment.

***Motion:** Chairman McMahan moved to adopt the Unified Development Ordinance Amendments and Four Consistency Statements, as presented. Commissioner Woody seconded the Motion. Motion carried by unanimous vote.*

(8) RESOLUTION SETTING SALARIES FOR SHERIFF AND REGISTER OF DEEDS R21-33: Mr. Adams stated that pursuant to G.S. 153A-92, the Board was authorized to set the starting salaries for the Sheriff and Register of Deeds positions. The 2022 filing fee for the offices of Sheriff and Register of Deeds would be based on current entry level salaries.

***Motion:** Commissioner Stribling moved to adopt Resolution R21-33 to set the salaries for Sheriff and Register of Deeds. Commissioner Jones seconded the Motion. Motion carried by unanimous vote.*

(9) PRESS CONFERENCE: None.

(10) CLOSED SESSION:

Motion: Commissioner Woody moved that the Board go into closed session pursuant to G.S.143-318.11(a)(3) Legal, G.S.143-318.11(a)(5) Real Property, G.S.143-318.11(a)(6) Personnel and G.S.143-318.11(a)(7) Criminal Investigations. Commissioner Stribling seconded the Motion. Motion carried.

Chairman McMahan called the regular meeting back to order and stated that no action was taken in closed session except the approval of the minutes.

There being no further business, Commissioner Deitz moved to adjourn the meeting. Commissioner Stribling seconded the Motion. Motion carried and the meeting adjourned at 7:57 p.m.

Attest:

Approved:

Angela M. Winchester, Clerk to Board

Brian Thomas McMahan, Chairman