

**MINUTES OF A PUBLIC HEARING
OF THE JACKSON COUNTY
BOARD OF COMMISSIONERS
HELD ON
JULY 09, 2015**

The Jackson County Board of Commissioners held a Public Hearing on July 09, 2015, at 5:30 p.m., Justice & Administration Building, Room A201, 401 Grindstaff Cove Road, Sylva, North Carolina.

Present: Brian McMahan, Chairman
Mark Jones, Vice Chair
Charles Elders, Commissioner
Vicki Greene, Commissioner
Boyce Deitz, Commissioner

Chuck Wooten, County Manager
Angela M. Winchester, Clerk to Board
J. K. Coward, Jr., County Attorney

Chairman McMahan called the public hearing to order and stated the purpose was to receive public input for consideration of the proposed revisions to the Cellular Telecommunications Ordinance.

John Jeleniewski, Planning Department, stated the Planning Board approved the revised Cellular Telecommunications Ordinance on December 11, 2014, last revised on July 6, 2015.

The purpose of this Wireless Telecommunications Ordinance is:

- to provide for the public health, safety and welfare by ensuring that residents, businesses and public safety operations in Jackson County have reliable access to wireless telecommunications networks and mobile broadband communications services while also providing for the protection of Jackson County's communities, residents, and natural resources;
- to encourage co-location of telecommunications facilities on existing towers;
- to encourage the use of existing buildings and structures as locations for telecommunications facilities; and
- to establish a fair and efficient process for review and approval of applications.

To accomplish the above stated objectives and to ensure that the placement, construction or modification of wireless telecommunications facilities complies with all applicable federal laws, including without limitation Section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, and to assure compliance with applicable state laws, including Session Law 2013-185, Jackson County adopts this wireless telecommunications ordinance. By enacting this Ordinance it is Jackson County's intent to ensure Jackson County has sufficient wireless infrastructure to support public safety communications throughout Jackson County and to ensure access to reliable wireless communications services throughout all areas of Jackson County while protecting communities, residents, and natural resources.

Mr. Coward highlighted the last revisions made to the ordinance based on his recommendations, suggestions from the Commissioners, Consultant Larry Perry, and others:

- The quasi-judicial authority has been changed from the Planning Board to the Board of Commissioners.
- The application and review process has been streamlined so that in some instances, it would not be brought to the Board of Commissioners, rather the decision could be made by the Planning Director. For example co-locations, etc.
- Several duplications were removed, to shorten the document.

PUBLIC COMMENTS:

(a) Fred Jones of Franklin stated he was an attorney and represented a number of clients with properties in Jackson County. He was most recently involved with the withdrawn cell tower application on the Cashiers site. He shared several items he thought should be amended in the proposed ordinance. He thought speed was taking the place of clarity, fairness and wisdom when an application is submitted. Also, it was difficult for him to obtain the most current version of the revised ordinance. He noticed inconsistencies and undefined terms, which could allow for litigation and debate. Most specifically, he believes Section 5 of the old ordinance has historically stated the county's desire as to where cell towers should go, how they are to be constructed, and how neighbors are notified. Now he reads the section as a stand-alone, with no meaningful way to make its way to the application. The applications that are submitted may not have to say anything about camouflage, or location etc. Also, a problem is that towers that are less than 120' in height are subject to approval only by the planning department officer and no public notice is required.

(b) Rick Barrs of Cashiers stated that two key points reviewed in the ordinance as written, allows towers up to 120' in height, with no notice to the public or adjoining property owners, no set back from property lines and no camo, with only approval from planning department staff. There is no recourse for any citizen or property owner to appeal or contest the approval. Also, towers greater than 120' in height have no requirement for a public hearing, unless the planning department requests a public hearing be held. He believes Section 3A(7) is a good section that seems to require the county to find that the site is the most appropriate, in regards to being least intrusive to surrounding properties, but "surrounding properties" is not defined. There should also be a minimum radius established.

(c) Craig Pendergrast of Whiteside Cove stated he owns property in Whiteside Cove and he is an attorney. He has experience with the application process for cell towers in Cobb County, Georgia and he has learned a lot about how it all works with the cell companies. He suggests that the application by the cell tower company be made sworn and under oath. Also, require applicants to put their information in detailed fashion, without conclusions. He requested the Commissioners defer their vote and come up with another version without the inconsistencies. He offered his assistance to coming up with a revised ordinance.

(d) Donna Barrs of Cashiers stated she believes that a bonus height to a cell tower provider for co-location of other providers is a good thing; however, she did not think to internalize or camo a tower should get a bonus height. She believes that is a standard they should have and is what they should be doing.

Chairman McMahan asked the speakers to give the Commissioners a copy of their concerns for review.

There being no public comments, Commissioner Jones moved that the public hearing be adjourned. Commissioner Greene seconded the Motion. Motion carried.

Attest:

Approved:

Angela M. Winchester, Clerk

Brian Thomas McMahan, Chairman