

**MINUTES OF A
REGULAR MEETING
OF THE JACKSON COUNTY
BOARD OF COMMISSIONERS
HELD ON
AUGUST 20, 2018**

The Jackson County Board of Commissioners met in a Regular Session on August 20, 2018, 6:00 p.m., Justice & Administration Building, Room A201, 401 Grindstaff Cove Road, Sylva, North Carolina.

Present: Brian McMahan, Chairman
Charles Elders, Vice Chair
Boyce Deitz, Commissioner
Mickey Luker, Commissioner
Ron Mau, 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 Mau moved to approve the agenda. Commissioner Elders seconded the Motion. Motion carried.

(2) **MINUTES**: Commissioner Elders moved to approve the minutes of a Regular Meeting of August 06, 2018. Commissioner Mau seconded the Motion. Motion carried.

(3) **CHAIRMAN'S REPORT**: None.

(4) **COMMISSIONER REPORTS**: Commissioner Luker thanked principals, teachers and school staff for welcoming back students on the first day of school. Also, he welcomed back Western students. They looked forward to another great year for both.

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

(6) **INFORMAL COMMENTS BY THE PUBLIC**:

(a) Debbie Stanley of Sylva, stated she wanted to publicly apologize to Commissioner Elders. She had known him for a very long time and had never known him to be anything but an upstanding, wonderful person that was very interested in the county. She apologized for not standing up for him the way she should have on the issue about consolidation. She was on the Consolidated Human Services Agency Board and when the vote came up, she felt pressured, disjointed and that it was not the appropriate place for people to be making the decision to counter something that the Commissioners had done. The Commissioners were elected by the people of the county and were the ones responsible for governing the county.

(b) Jerry DeWeese of Sylva, stated that last Tuesday, Commissioner Luker did not get the answer he wanted from the Consolidated Board that he conceived and this week he wanted to dissolve the board and have the Commissioners assume those duties. Last week he read a statement that consolidation was done to streamline, strengthen and improve services. This week, he believed that the five Commissioners could do a better job than fifteen skilled and compassionate professionals. Just a year ago, all five Commissioners stated that they did not want to assume the role of the two boards that were seated at that time. Why the change now? He urged the Commissioners to return the boards the way they were a year ago in their functioning states.

(c) Deborah Freels of Sylva, stated she was speaking on behalf of herself and her neighbors regarding the deplorable road condition of Henley Circle. Eighteen wheelers traveled the road constantly delivering products to O'Reilly Auto Parts. That, along with the public and their use of the road, it had created a lot of damage, which caused damage to vehicles. The road and bridge were supposed to be kept up with proper maintenance with clean ditches, but that had not been done. She provided the Commissioners with a petition for relief.

(d) Page Christie, Executive Director of the Community Table, stated that on behalf of all the people they served and their Board of Directors, she wanted to thank the Board of Commissioners for the generosity with helping to fund them that year, as there was a great need.

(e) Kelly Robinson of Sylva, stated he also lived on Hensley Circle and he thought there had been a decline of routine maintenance on the road from DOT. There was also vegetation growing out heavy on the road. They needed to cut into the base of the road and have proper maintenance so that it would last longer.

(f) Dick Darnall of Cashiers, stated that WLOS recently did an article on the Highlands Trust regarding staking goats out to eat kudzu. He thought they could bring more goats in and it could help with farming and that it was very manageable.

(g) Carroll Ann Cope of Sylva, stated she was a proud and grateful Jackson County retiree with a full career at the Department of Social Services. She was very concerned, once again, that they were at a point where she could find no one that supported the plan of having a consolidated board. They heard over and over that things were working well as they had two excellent directors of the Health Department and Social Services. They would have a consolidated board director taking taxpayer's money that could far better be spent on the needs of the citizens of the county. She was concerned about consolidated board members learning aspects of the Health Department and DSS and now they were talking about Commissioners taking on that responsibility. She thought that was the most frightening and absurd thing as they would be taking care of the county and adding on another huge responsibility.

(7) CONSENT AGENDA:

(a) Darlene Fox, Finance Director, presented the Finance Report for July, 2018 and a Grant Project Ordinance, for approval.

Commissioner Mau requested that Ms. Fox provide him with a year-to-date report on the sales tax, at a later date.

(b) Brandi Henson, Tax Collector, presented the Tax Collector and Refund Reports for June-July, 2018, for approval.

(c) Brandi Henson, Tax Collector, presented the Tax Settlement Report for July 1, 2017 – June 30, 2018 for approval.

Motion: Commissioner Deitz moved to approve the Consent Agenda. Commissioner Mau seconded the Motion. Motion carried by unanimous vote.

(8) PAYMENT IN LIEU OF TAXES: Ms. Baker stated that this was an item that was discussed at the last work session. This was regarding a payment in lieu of taxes (PILT) that the county received every year for US Forest Service Property, which was approximately \$200,000 per year. A class action lawsuit had been filed across the country due to underpayment of those fees. The question before the Board was did they want to opt-in to the class action lawsuit to collect the estimated \$7,000-\$8,000 owed to Jackson County for 2015, 2016 and 2017.

Motion: Commissioner Deitz moved to proceed forward to participate in the class action lawsuit for PILT and allow Ms. Baker to complete the necessary paperwork. Commissioner Mau seconded the Motion. Motion carried by unanimous vote.

(9) SEPTEMBER 3RD REGULAR MEETING: Mr. Adams stated that as discussed at the last work session, September 3rd was a holiday. It was requested that the meeting be rescheduled.

Motion: *Commissioner Mau moved to reschedule the regular meeting on September 3rd to September 4th at 3:00 p.m. Commissioner Elders seconded the Motion. Motion carried by unanimous vote.*

(10) CONSOLIDATED HUMAN SERVICES AGENCY BOARD UPDATE: Mr. Adams stated that it was requested that he provide an update to the Board on the most recent meeting of the Consolidated Human Services Agency Board. On August 14th, the Consolidated Human Services Agency Board met at 6:00 pm at the Social Services Building.

(a) The meeting was called to order. The agenda and the July 10th minutes were approved.

(b) One individual spoke during public comment.

(c) Chair Kathy Farmer began discussions regarding the Consolidated Human Services Agency Board's request to the three Commissioners that voted for consolidation. The Agency Board had previously requested that one of the three Commissioners appear before them to provide reasoning for consolidation. Commissioner Luker agreed to respond to this request. Commissioner Luker provided three common goals to the group. Chair Farmer informed the group to contact the Commissioners individually if they wished to discuss the three common goals further.

(d) Shelley Carraway, Health Director, briefly discussed how many Agency Board Members had volunteered to serve on the Animal Control Ordinance review committee and encouraged additional participation.

(e) Chair Farmer discussed the process to fill vacancies on the Consolidated Human Services Agency Board. She explained that nominations were required to be generated by the Consolidated Human Services Agency Board. She explained that the Board of Commissioners inadvertently appointed Alex Stillwell to fill the engineer vacancy without their nomination. She stated that this was unintentional and the Commissioners just followed the process of most other board vacancies. The Consolidated Human Services Agency Board then unanimously voted to nominate and affirm Alex Stillwell to fill the vacant engineer position.

(f) Dr. David McGuire was placed on the agenda to discuss his questions regarding organizational issues. Dr. McGuire focused on the following sections of NCGS 153A-77:

"Local employees who serve as staff of a consolidated county human services agency are subject to county personnel policies and ordinances only and are not subject to the provisions of the North Carolina Human Resources Act, unless the county board of commissioners elects to subject the local employees to the provisions of the Act. All consolidated county human services agencies shall comply with all applicable federal laws, rules and regulations requiring the establishment of merit personnel systems.

(e) The human services director of a consolidated county human services agency shall be appointed and dismissed by the county manager with the advice and consent of the consolidated human services board. The human services director shall report directly to the county manager. The human services director shall:

(1) Appoint staff of the consolidated human services agency with the county manager's approval.

(2) Administer State human services programs.

(3) Administer human services programs of the local board of county commissioners.

(4) Act as secretary and staff to the consolidated human services board under the direction of the county manager.

(5) Plan the budget of the consolidated human services agency.

(6) Advise the board of county commissioners through the county manager.

(7) Perform regulatory functions of investigation and enforcement of state and local health regulations, as required by state law.

(8) Act as an agent of and liaison to the state, to the extent required by law.

(9) Appoint, with the county manager's approval, an individual that meets the requirements of GS 130A-40(a)."

Commissioner Deitz stated that he thought it was proper for the Agency Board to ask those question to try and find out exactly what their duties were.

(g) Dr. McGuire stated that he would like to discuss the timing of the hiring of this position. He put a motion on the floor to not hire a Human Services Agency Director until after the November, 2018 election. The motion was seconded and passed 10-1.

(h) Jennifer Abshire, DSS Director, presented orientation information to the group.

(i) Administrative report: Ms. Abshire handed out statistical information on Social Services.

(j) With no other committee reports, business or announcements, the meeting was adjourned.

Commissioner Elders inquired of Mr. Adams what the next move would be.

Mr. Adams stated he would need to give some history to answer the question. Going back to the beginning of consolidation, this Board chose not to proceed forward and then at a later time, the Board chose to move forward with the model they were currently operating under, a Consolidated Human Services Agency, which would require an agency director. Once the Board voted to do this, even though it was a 3-2 vote, staff professionally attempted to move forward with the model that was selected by the Board. Staff included the County Manager, the County Attorney and at the time, the Human Resources Director and also the Department of Social Services and Health Department Directors. Prior to a chair being elected, management had meetings and did all that they knew to do to proceed forward with this model of operation.

He reported to the Board of Commissioners the request from the Consolidated Human Services Agency Board requesting the Board of Commissioners write a letter to justify their actions. At that time, he mentioned to them that it was a challenge with a rocky start. During the first meeting there were a lot of questions relating back to why the Board of Commissioners took the action that it did. He did come back and report to the Commissioners that information and the request of the letter. The Commissioners chose to move forward and not provide a letter. He attended the second meeting of the Consolidated Human Services Agency Board and they requested that three the Commissioners that voted in favor of consolidation designate a Commissioner as representative to give justifications. Also at that meeting, they went through a series of questions and comments regarding the validity and purpose of this system. As stated above, at the final meeting, the Agency Board chose to suspend the process to select a director.

On behalf of himself and staff, in his mind the whole process became politicized. It was being openly discussed about what may or may not occur at the next election. From that perspective, he was stating this as the County Manager and also representing staff, although he had not talked to staff, it was a position that they did not need to be in. The Consolidated Board had a directive from the Commissioners, no matter what the vote was, to proceed forward. Now that it had been politicized, he was not sure how to proceed forward because if staff did not say the correct thing, it may be perceived as being politically in favor or against whatever action was going on. At that point, he did not know how to proceed forward because he believed it had been politicized and he said that with evidence of the minutes and the newspaper articles. He believed if they continued on as, they would continue to go through these series of questions about the process and justification.

Commissioner Elders stated that this was no place for politics with the Health Department and the Department of Social Services. There was a statement regarding him that he only voted one way at the direction of his two fellow republicans. If they searched the records, they would find out that was not true. Recently he voted with the two democrats because he thought that was the best way to go.

They started this research on the consolidation and it was with the intention of trying to make things throughout the county better. They had a problem with the code and permitting going to so many different departments and they had really improved on that. They did have complaints about the Health Department and Social Services, but that was not to be discussed in public, that was to be worked out among their officials. It bothered him that the elected Board of Commissioners voted 3-2 to go ahead with this and the Consolidated Board they appointed went against them. That was where he was at, but he did not want to be political in this at all.

Commissioner Deitz stated he was at the last meeting of the Consolidated Board and he did not remember them asking to change this. They asked if they could wait to see how the election went. There was no need to hire someone for two or three weeks and bring them and their families in and then all of the sudden after the election, a new Board of Commissioners could change this and decide to go another route. It just seemed like common sense to wait and choose this person.

Mr. Adams stated that was the motion that he put in the report. He based what he stated on two meetings of minutes, newspaper articles and sitting through the process. He understood that they were focusing on one issue. In the past meetings, he found himself going down the questions about the process and justification. It was commonly known that multiple Board Members did not believe in the system that had been chosen.

From a staff perspective, he was giving an honest opinion and that they were attempting to move forward as professionally as they could. He found himself continuously debating, discussing or justifying the reason this was done in the first place. From his perspective, staff was doing their best to move forward with what the Board of Commissioners voted to do and at the same time they were finding themselves justifying what the Commissioners voted to do. It was not a good position for staff to be working through.

Commissioner Deitz stated that he sized this up exactly right, it became political and there was a lot of talk about staying or going back. It was enlightening to hear one citizen that was for it because so far they had three different meetings and this was the first person that spoke for it.

Mr. Adams stated that it was his desire and the desire of management, staff and administration to move forward with the system that the Board of Commissioners chose and do it in a professional and efficient way.

Chairman McMahan stated that he appreciated the job that staff had done. They were following what the majority of the Board voted, whether he agreed or disagreed with it, he appreciated the fact that they were trying to follow through. They had heard the manager's report of what had taken place and at this point the Consolidated Board felt they should delay a process for the time and revisit it later in the year.

Commissioner Mau inquired of Mr. Adams what it would take for administration and staff to move forward.

Mr. Adams stated they needed to move forward with the director's position and continue the training of the Consolidated Board. From an employee standpoint, there was a cloud over everything that staff was working to do. What made it difficult for them would be to go through the next steps when they knew that there was work being done to reverse everything. To move forward, they would almost have to eliminate the politics that were going on. Under the current system, he did not know how much they could get done until after the election. If this was the view, why would they continue to meet? He was not sure he would recommend they continue under the current system until after the election.

Commissioner Luker stated that it had become nothing but a political battle, which was shameful. Based on a decision of the Board of Commissioners, whether it be this decision or another, that was a directive that should be moved forward. When they chose this process, they were careful about choosing the most inclusive model and to make sure that they went through a process that eliminated politics. Ultimately, they just reversed and made it a political debate and pandering of promises that could end up being broken promises to mander votes. That was not right.

Commissioner Deitz stated that he did not care if he got a vote in the whole county, he was not politicking with this. People ask every day why they did this and no one knew why, no one ever understood why this happened.

Commissioner Luker stated it had become political and it should not be, it was shameful because there was a quote made at PJ's on Wednesday morning that was pretty disturbing. He could not imagine that he had not heard from anyone. There were 9,276 people that voted for him that asked for certain changes, but he did not take decisions of the Board and make them political issues. It was requested from the community and asked of him for different things. It did not come by an easy method. He had done his homework. He spent multiple hours in Haywood County, Graham County, Stokes County and most recently read the Cansler report from Forsyth County. He spoke to Ira Dove, Human Services Director of Haywood County and Keith Eller and Becky Garland from Graham County gave a wealth of information.

There was no denying that they had two good agencies, but they were always looking for ways to better improve their services. There was a method they could have chosen if they did not believe in Ms. Abshire and Ms. Carraway. They could have abolished those positions and they would have to be appointed. Ultimately, they thought it was a way that they could make things better for all of the citizens for the services they provided.

Informational item.

(11) RESOLUTION ABOLISHING THE JACKSON COUNTY CONSOLIDATED HUMAN SERVICES AGENCY AND CONSOLIDATED HUMAN SERVICES BOARD

(R18-11): Commissioner Luker stated that based on the facts that they had been given there that night, he presented Resolution R18-11 abolishing the Jackson County Consolidated Human Services Agency and Consolidated Human Services Board and exercising the authority of the Jackson County Board of Commissioners to assume all powers, responsibilities and duties of the County Board of Social Services and the County Board of Health in accordance with NCGS §153A-77.

Mr. Adams stated that the Department of Social Services and the Health Department would become departments under the control of the Board of Commissioners. There was a resolution that stated all departments under the general control of the Board of Commissioners were supervised by the County Manager.

Motion: *Commissioner Luker moved to adopt Resolution R18-11 as presented. Commissioner Mau seconded the Motion.*

Discussion:

Commissioner Elders inquired if this would affect the employees of the Health Department and of Social Services.

Mr. Adams stated that under this option, the employees were mandated to remain under the Human Resources Act, still operating under the same policies they were operating under.

Commissioner Mau stated he had a couple of people call him and thank him for consolidating. They had noticed an improvement in services, it was already working. He had discussed getting strategic as people aged out for cross-training, improving services, improving efficiencies and employees becoming more innovative and start proposing ways to improve the process. Looking at other counties to see what they had done, granted Buncombe County was bigger, they had a report for different things they had done to reduce wait times, cross-train people and a long list of items about improved services. There was also a fiscal aspect that they talked about. In the last ten years they had documented a \$24 mil benefit in their county after consolidation, which would be about \$2.4 mil per year. Their current health services budget was about \$100 mil, so it would be 2.4% of their budget.

Jackson County's current budget was approximately \$15 mil. If there was a way that they could build a framework to help think proactively and come up with solutions to optimize and organize. No one had ever said anything was wrong, it was about trying to get better. If they took 2.4% of a \$15 mil budget, it would be \$360,000. Granted, it was not all going to happen right away, it would take time. The first year, they probably would not save a dime. If they saved \$360,000 over the next ten years, they funded an animal shelter. They had other things they could do. They were looking at an unfunded mandate and they were able to fund three teachers that year, they just found a way to fund them. This would pay for seven of them. There was always an opportunity to think about other uses they could do with the money. There had been programs for DSS and the Health Department where they had grants expire, so they no longer got funded and may no longer be able to have those opportunities anymore. If they figured out ways to save money, they may be able to figure out how to keep those programs going.

It was all about allocation of scarce economic resources. Government could increase the economic resources by raising taxes, but that that was not popular, no one wanted to do that. Or they could do things to make the pie bigger with economic development where they were getting a percentage of a bigger pie or money. Government could also look for ways to be more efficient and save taxpayer's money. That was what consolidation was an attempt to do and move forward.

He believed in putting his money where his mouth was. There was a line item for the Board of Commissioners in the budget. Two years ago it was \$308,000 and this year it was \$265,000. That was a pretty big reduction. They were taking steps to be more efficient as a Board, so it could be done. He thanked Mr. DeWeese for resigning from the Consolidated Board. He did not agree with what the decision was and stepped up and resigned, that was a professional way to behave in his opinion.

Commissioner Deitz stated that when they started talking about this, they had the director of each department speak to the Commissioners and say they were almost connected at the hip, they worked that closely together. If the Commissioners would tell them what they needed to do or change, they would have done it. He did not know what anyone could ask differently from someone that worked for them. But, it did not matter at all, this had to happen and so it was going to happen. If he understood correctly, the Commissioners would be the Board now and they would have to act in the place of the professionals that were on that Board. He thought the doctors and other professionals could do a better job of advising the Health Board than they could do. They would see if the Commissioners knew more than the now three boards they had abolished. He went to the last meeting of the Consolidated Board and they seemed to be using common sense in what they were doing and trying to do that job.

Commissioner Elders stated that he still regretted the fact that politics had even come up in a matter like this. It was wrong, it was a disgrace and it should not have happened. After the vote, he wanted them to remember that it was the citizens of Jackson County that they had to keep in mind and try to make every day better for each and every one that needed those services for any departments of the county. He appreciated everyone that spoke.

Chairman McMahan inquired of Ms. Baker if there was a requirement to hold a public hearing?

Ms. Baker stated that NCGS 153A-77 required a public hearing with a thirty day notice. The question was asked of her whether the public hearing in January was sufficient to move forward under this resolution. It was her opinion and the opinion of Jill Moore and Amy Wall at the School of Government that it was not because they had a resolution at that time and the Consolidated Board was established. If they were looking at an option to take over the duties of that board, that was when the public hearing would be triggered.

However, if they decided to rely on the January meeting, there needed to be discussion of that in the minutes because a public hearing was absolutely required. The best course to move forward on any option would be to have a new public hearing so a challenge would be less likely. However, even if they did not, they would need to set forth their opinion that the January public hearing was sufficient to be in the minutes and clearly stated.

Chairman McMahan stated that to avoid any legal ramifications and go the extra mile to be transparent and make sure they were following the letter of the law, the best option would be to hold a public hearing to be advertised for thirty days and then take action on the resolution.

Ms. Baker stated that was the clear option to go forward without the possibility of it being contested for procedure.

Chairman McMahan stated they had a motion on the floor to consider the resolution. Was there consideration to call for a public hearing as opposed to moving forward with a resolution?

Commissioner Luker stated no, there was not on his part. They had this discussion, but he knew there seemed to be variations of differences of opinion on that. There was really no case law that had been cited or given as an example. Others that worked with these agencies believed that the January public hearing would be sufficient.

Chairman McMahan stated that he voted against the original motion to consolidate because he strongly believed then as he still believed "if it ain't broke don't fix it". There was a long history in Jackson County of good solid leadership and good solid work being done by both the Department of Social Services and the Health Department and he did not see any reason why they should change. Yes, there were always opportunities to dream about saving a dollar here or there, but at the end of the day that was all hypothetical. It may come to pass or they may end up spending more money.

He had found over the years of being involved in county government that they could look at the 100 counties across the state and none of them were identical and there were no good comparisons. What worked in one community may not work in another. It was hard to try and do an apples to apples comparison when looking at statistics and all the financial reports, it was really not comparable.

He appreciated the Consolidated Board and their service as they were asked to be a part of this process and the Commissioners unanimously appointed them to serve in their capacity. He thought they had tried their best to do the job they thought they were put in that position to do and represent citizens and the departments. He appreciated their service of the last couple of months.

Finally, he had not politicized this. He had not called a single board member and asked them to vote in any way or to make any motions or to do anything. He had not been a part of politicizing anything, they would not find any record where he tried to politicize this. This was about the people that he felt were representing what they thought the community wanted and needed. Therefore, he had no part of trying to bring politics into this, as some may have suggested.

Motion carried by a 3-2 vote, with Commissioner Deitz and Chairman McMahan voting "nay".

(12) PRESS CONFERENCE: None.

(13) CLOSED SESSION:

***Motion:** Commissioner Luker moved that the Board go into closed session pursuant to G.S.143-318.11(a)(6) Personnel for one item. Commissioner Mau seconded the Motion. Motion carried.*

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

(14) PUBLIC HEARING: Commissioner Mau stated that he wanted to go back to the public hearing issue. They passed the resolution, could they schedule the public hearing even though they already passed the resolution?

Ms. Baker stated she thought that would be a good idea.

***Motion:** Commissioner Mau moved to set a public hearing to receive public comment on Resolution R18-11 on October 1, 2018 at 2:30 p.m. Commissioner Elders seconded the Motion. Motion carried by unanimous vote.*

There being no further business, Commissioner Mau moved to adjourn the meeting. Commissioner Luker seconded the Motion. Motion carried and the meeting adjourned at 8:02 p.m.

Attest:

Approved:

Angela M. Winchester, Clerk to Board

Brian Thomas McMahan, Chairman