

**MINUTES OF A
WORK SESSION
OF THE JACKSON COUNTY
BOARD OF COMMISSIONERS
HELD ON
MARCH 12, 2019**

The Jackson County Board of Commissioners met in a Work Session on March 12, 2019, 1:00 p.m., Justice and Administration Building, Room A227, 401 Grindstaff Cove Road, Sylva, North Carolina.

Present: Brian McMahan, Chairman
Boyce Deitz, Vice Chair
Mickey Luker, Commissioner
Ron Mau, 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) CHILD ABUSE PREVENTION MONTH PROCLAMATION / PIN WHEEL PLACEMENT ON COURTHOUSE LAWN: Paige Gilliland, Case Management/Forensic Interviewer of AWAKE Children’s Advocacy Center; Janet James, FNP, AWAKE Child Medical Evaluations; and Jennifer Abshire, Board Member, were present for this item.

Ms. Gilliland stated that for the past several years, the Board of Commissioners proclaimed April as the county’s Child Abuse Prevention Month in recognition of the national event. Blue pinwheels were a national symbol of child abuse prevention. The county’s Children’s Advocacy Center, AWAKE - Adults Working and Advocating for Kids’ Empowerment, would be working with volunteers to “plant” pinwheel gardens around the county to help increase awareness of this important cause during the month of April.

That year, the Center wanted to expand the number of pinwheels ordinarily placed at the bottom of the Historic Courthouse with a larger garden of pinwheels extending up both sides of the staircase to the statue. They were asking permission from the county to place approximately 500 pinwheels and a temporary banner of approximately 4 feet by 8 feet at the lower right-hand side of the staircase during the last week of March for the month of April. The sign would have a pinwheel graphic and state:

*Every child deserves a happy childhood.
Jackson County Child Abuse Prevention Month*

AWAKE would be responsible for the purchase, distribution and removal of the pinwheels and sign. She thanked the Board for considering this request.

Consensus: *Place this item on the next regular agenda for consideration.*

(2) FAIR HOUSING PLAN: Caroline LaFrierier, Planner I, stated that the Housing Committee and Planning Department staff had been working to develop the Fair Housing Plan for compliance with the 09-D-2945 CDBG-I Grant requirements. The Fair Housing Plan analyzed the existing housing market, segregation, integration, disparities in access to opportunity, disproportionate housing needs for individuals with disabilities and those in poverty and the steps or strategies that the county may take to try to resolve these issues.

The Planning Department hosted stakeholder meetings and invited thirty individuals from the community that dealt with housing on a regular basis to identify and discuss the impediments to Fair Housing in the county. After the impediments to Fair Housing were identified, Planning Staff developed a survey to receive further input from county residents. The survey was distributed via email and social media and was translated into Spanish and given to the staff at Vecinos for distribution among their patients.

They received over 200 responses to the survey and the data would help reinforce the identified impediments and help the Housing Committee to identify goals to further Fair Housing in the county.

The Fair Housing Plan discussed the impediments to Fair Housing identified by the Housing Stakeholders and steps that could be taken to diminish housing discrimination in the county. An example of an impediment to Fair Housing identified and a goal to mitigate was:

(a) Impediment: Tenant selection plans developed by landlords for potential residents could be prohibitive for individuals with disabilities that required service animals.

(b) Goal: Jackson County Housing Trust Fund made it a priority that new housing developments in the county have HUD compliant tenant selection plans and did not discriminate against any of the protected classes.

(c) Impediment: Lack of education of fair housing laws in the community, specifically landlords.

(d) Goal: Develop an online platform that would provide fair housing laws and education for community members and landlords.

The Planning staff was working to draft the Fair Housing Plan that would have other impediments and goals that the Board of Commissioners could review and decide if feasible and in the best interest of the county. A draft of the Fair Housing Plan would be submitted to the Board of Commissioners by March 18th for review before the April 2nd meeting.

A complete list of the identified Fair Housing impediments:

(e) 12/4/18 Meeting:

- Construction, renovation and acquisition cost.
- Lack of education of fair housing laws in the community, specifically landlords.
- Lack of safe and sanitary housing options for all ages and backgrounds.
- Background check requirement for rentals discourages fair housing for individuals recovering from addiction, domestic violence victims, diagnosed disability and mental health issues.

(f) 12/13/18 Meeting:

- Lack of minimum housing code and standards.
- Lack of education of fair housing laws in the community, specifically landlords.
- Tenant selection plans for potential residents can be prohibitive. Examples: no pets - need for service animals, criminal background, etc.
- Availability of living wage jobs.
- Waitlist for housing vouchers and prioritization of waitlist for housing vouchers could be prohibitive for certain individuals.

Consensus: *Add this item to a future agenda for consideration.*

(3) **NCDOT PEDESTRIAN GRANT RESOLUTION:** Michael Poston, Planning Director, stated that in October he informed the Board about an opportunity the county had to apply for a DOT Pedestrian Planning Grant. They made application and were notified that they were selected as a grant recipient. He presented a resolution for consideration that stated the Board supported the project and would pay 30% of the costs, approximately \$21,000 with DOT paying the remaining \$49,000. The work was awarded through DOT as they had a list of prescreened and qualified consultants. It would be an approximate 18 month planning process and they would have a steering committee. They would develop policies for consideration regarding pedestrian mobility and build the county's capacity to own and maintain a pedestrian network that would be efficient and sustainable.

Ms. Baker stated she requested the DOT make the following changes to the contract:

- Change "municipal" to "county"
- Cap the county's amount of the project costs

Mr. Poston stated that when the revised contract was received back from the state, he would bring the item back to the Board for consideration.

Consensus: *Add this item to a future agenda for consideration.*

(4) SAFE ROUTES TO SCHOOL GRANT: Shelley Carraway, Health Director, presented: North Carolina Safe Routes to School Program (SRTS) Non-Infrastructure Transportation Alternatives Program Executive Summary:

(a) Background: The Jackson County Department of Public Health housed the Active Routes to School (ARTS) program, which was under the Safe Routes to School (SRTS) program for the past five years. ARTS worked to promote walking/biking programs before and during school hours in eight counties in the region. As a result of this program, Jackson, Haywood and Swain Counties all had sustainable (in policy or procedure) at-school walking programs for the public school students. The ARTS grant would be ending May 31, 2019. This new SRTS grant could take pedestrian safety to the next level in the community and contribute to the goals in the county's Comprehensive Transportation Plan.

(b) Funding: Funding from the new grant was intended to support programs and activities that focused on education, enforcement, encouragement and evaluation elements of a SRTS initiative. This was a cost reimbursement program, with 80% federally funded (up to \$100,000 per year for three years) and a required 20% local match. If this SRTS grant were awarded to Jackson County it would require a new position to be created. Salary and fringe were covered in allowable costs.

(c) Program Purpose:

- Enable and encourage children, including those with disabilities, to walk and bicycle to school.
- Make bicycling and walking to school a safe and more appealing transportation alternative, thereby encouraging a healthy and active lifestyle from an early age.
- Facilitate the planning, development, and implementation of projects and activities that would improve safety and reduce traffic, fuel consumption and air pollution in the vicinity of schools.
- Must benefit Kindergarten-8th grade children.

(d) Program Proposal:

- For Education and Encouragement: Continue to teach children and parents about pedestrian/traffic safety through community Bike Rodeo and Walk to School Day.
- For Enforcement: Intergenerational partnership between K-8 students and senior citizens. This could be carried out by training volunteer adults to act as crossing guards, initiating "walk with a cop," etc.
- For Evaluation: Evaluate current conditions and behaviors, conduct walkability and bikeability checklists and work with DOT for walkability assessment to lead to infrastructure improvement.

The request was to approve moving forward with the development of a grant proposal with Jackson County acting as the lead agency along with three other counties served by the grant. The expectation was that Jackson County could provide an in-kind match with each of the three counties contributing actual dollar match to meet the requirement of a 20% match. The ultimate goal would be for county citizens and visitors to benefit from a walkability assessment and for pedestrian safety to be increased.

At that time, Jackson County would have a lot of in-kind contributions since it would be the host county. She had been working with other counties and organizations for contributions. This was due March 29th.

Commissioner Woody stated she thought it was a great program. If some of the funds did not come through, had they talked with the tribe yet because they were very big on supporting health initiatives. That may be a resource as well. She supported approval.

Mr. Adams stated this went back to previous discussion he had with the Board. Grant applications involving personnel and/or match, would need to come to the Board for discussions.

Consensus: Ms. Carraway to inform Mr. Adams when she has funding commitment updates and add this item to the next regular meeting agenda for consideration.

(5) **INDOOR POOL SURVEY**: Michael Hopkins, Assistant Recreation and Parks Director, was present for this item.

Mr. Adams stated this item was discussed at the Board's work session retreat. From the retreat, it was thought that staff would move forward with issuing an additional survey to garner community thoughts and input regarding an indoor pool. Since then, there had been conversations and questions about what the old survey looked like and what type of information it garnered. There were also questions as to whether or not the old survey provided enough information to proceed forward with engineering. From a staff standpoint, they would need to know if they were proceeding forward with a new survey as they would want to start developing a process of what additional information the Board may want to garner.

Mr. Hopkins provided background on the previous survey, which came out of the recreation master plan update. The most recent update was August, 2013. The method used to obtain the information was from public surveys, including online and paper copies, which contained 20 questions. In addition to the surveys, they held four public meetings in Dillsboro-Qualla, Sylva-Webster, Cullowhee and Cashiers-Glenville. They collected facility inventories throughout the county, received departmental input and reviewed current recreation trends.

They received a total of 841 Jackson County resident participant surveys. At that time, they had approximately 1,100 members at the Cullowhee Recreation Center. The majority of the surveys were completed by residents of the Cullowhee District with 40.6%. This was followed by the Districts of Sylva-Webster with 37.9%, Dillsboro-Qualla with 12.6% and Cashiers-Glenville with 8.9%. Regarding the overall maintenance of the parks and centers, 608 respondents stated that any of those operated by the county were in good to excellent condition. The overall quality of the recreation programs participated in were rated by 515 participants to be great or excellent.

The survey questions were as follows:

- Which is the best way for you to find out about Jackson County Recreation/Parks Department activities:
 - 57.5% Email
 - 44.4% Newspapers
 - 38.9% Word of Mouth
 - 38.3% Website
- Reasons that prevent you or other members of your household from using parks, centers and programs of Jackson County:
 - 43.5% None
 - 26.0% I do not know what is being offered
 - 22.3% Too far from my/our residence
- How do you perceive the need for new recreation facilities for Jackson County:
 - 51.9% Extremely important
 - 39.2% Important
- Do you believe Jackson County needs more of these facilities:
 - 90.5% Indoor swimming pool/water parks #1
 - 89.2% Walking and biking trails #2
 - 83.5% Nature center and trails #3
 - 61.9% Picnic facilities and shelters #4
 - 61.4% Community gardens #5
- In your opinion, how important are the following potential parks and recreation improvements:
 - 66.8% Construct centrally located indoor swimming pool #1
 - 53.7% Greenway construction #2
 - 46.4% Construct more nature trails/areas #3
- Which facilities or improvements would you be most willing to support funding for:
 - 86.0% Construct centrally located indoor swimming pool #1
 - 77.5% Construct more nature trails/areas #2

- 72.8% Greenway construction #3
- 66.2% Expand/acquire more land for parks/nature areas #4
- 47.9% More picnic areas and shelters #5

There was also a general comment section where “swimming pool” came up 19% of the time. He inquired if the information from the previous survey was substantial enough to potentially place this on a bond referendum or did they believe it was necessary to do a new survey? If so, what new information would they want to be included on the survey? He thought they could handle the new survey in-house. He thought they would want to identify stakeholders, including the general public and the health community. They could use Survey Monkey again and email their current members for a good start. Community input meetings would be very important. Also, did they believe a task force or committee would be needed going forward?

Commissioner Woody stated that it was obvious that a very thorough survey was done. The first survey was done in 2005 and then again in 2012. If they chose to do one now it would be another seven years since the last. Was the 2012 survey information too old to use? Now they had a Greenway that they did not have at that time. They also had a Senior Center that was very well attended and that population was not specifically targeted in the survey at that time. She felt that was a huge group of people that would use it, particularly for aqua-therapy. She felt that a new survey would be very beneficial.

The other item that concerned her was the first question regarding support for funding. She felt that question could be worded more specifically if property owners were willing to pay more taxes for an indoor pool. She thought it behooved them to get the most current and accurate data from the citizens. She was in favor of a pool and would vote for a tax increase for a pool, but she wanted to make sure the citizens felt that way as well.

Commissioner Luker stated that in the Comprehensive Plan they approved, it talked about the pool. Specifically, what did it say or mention about the pool because he knew that was a huge wide array of participants, stakeholders, health organizations and schools involved in that.

Chairman McMahan stated that as a member of that, if he remembered correctly, it was an endorsement of the Master Plan, but they did not do any surveys about a pool, they only approved the concept of what the Master Plan called for.

Commissioner Luker stated that then the Board approved saying they supported that.

Commissioner Woody stated that she agreed with Commissioner Mau that she thought it should be located in Cullowhee – just looking at a map as far as being a central location. Also, with site preparation and staffing.

Mr. Hopkins stated that the recreation facility in Cullowhee was designed to expand for an indoor pool.

Commissioner Mau stated that the Cullowhee site had millions of dollars advantage over other sites. As far as if people wanted their taxes raised, the ultimate survey was at the ballot box. That was where that question got answered. He did not see why they would survey anybody before it was on a ballot that did not really make sense to him.

Commissioner Luker stated that they could not really say that the tax increase would be one cent or two cents.

Commissioner Mau stated they could come up with a range, but until they had the architect come up with a scope, they really did not know.

Mr. Adams stated that the figure he used previously for the report was approximately \$37,000 for the engineering. He requested approximately \$50,000 to have funds for marketing.

Chairman McMahan stated the goal was an indoor pool in Cullowhee and the objectives to accomplish that goal were to form a task force, explore public/private partnership and a feasibility study. Those were the three objectives approved by the Board. None of the objectives stated to put it on a ballot and ask the people vote.

Commissioner Woody stated she would like to see them do a survey and Mr. Hopkins had stated that their staff could do that and do it soon and make sure they covered a few more areas that may not have been covered before.

Chairman McMahan stated that the way they were proposing to pay for the indoor pool would be through a property tax increase asking property owners to pay for the capital increase. Others would contribute through membership fees, but they may be asking a lot of people to pay that would never use the pool. He thought that it would be important to know what percentage of users were property owners.

Commissioner Mau stated that none of those people would be able to vote. So it went back to put it on the ballot and that question took care of itself.

Commissioner Luker inquired about the timeline.

Mr. Adams stated he reserved the right to formalize the answer. They would need to present this to the Board of Elections around May, 2020 before the election to get on the November ballot, which would be the drop deadline. Prior to that, the engineering process and getting input from stakeholders would take six months. Then, how much time they would want to actually market. He estimated they would need to have the survey done by September, 2019.

Commissioner Deitz stated that he thought they should do another survey. On the old survey, 78% came from Cullowhee or Sylva, which meant 20% came from somewhere other than there and he did not think that was a very good sample. He thought they should look strongly at how they stated the questions and who they asked. He thought they tried to get the best results out of the survey possible.

Chairman McMahan stated that the results of the four meetings held in the different districts, more heavily traffic area was where they got the greatest results. It was obvious the number one place was the rec center because that was where the most people were willing to take the survey. When they looked at the Addie meeting that was held at the HUB, two people attended. The meeting at Scotts Creek Elementary had six people attend. The Willets Community and Balsam Community meetings had zero in attendance. It was hard to get people to participate, but he thought it was worth trying to generate conversation.

Before, it was a huge master plan approach to gather input about a lot of different topics, this would be more focused. Maybe with the help of the press and with pushing the issue, they could get people to participate and get what they needed to have the votes to move forward, which was what it would take.

Commissioner Woody stated that she thought a key was that now the rec center in Cashiers had great participation and the senior center had a lot of participation so she thought they would get a good participation there.

Mr. Hopkins stated that the sample could be skewed because a majority of their participants were going to come to the rec center. Trying to get folks to come out in the more rural areas was more difficult.

Mr. Adams stated that his conversation with staff was they needed to make sure what the questions would be and who they were trying to reach. First, they would need to start working on the survey and put together the questions and bring that back to the April work session for feedback from the Board.

Also, they would start developing strategies from what they heard that day regarding outreach. Then, hopefully they could start the process in May and then in the early summer months would be a reasonable time frame to have the data they were looking for. If anyone had ideas or questions, they could email them to him. At the April work session he would have a sample survey and more conversation about how they planned to garner responses.

Informational item.

(6) HEALTH INSURANCE RENEWALS: Mr. Adams introduced the new consultant Mark Browder, Vice President of Mark III. He requested that Mr. Browder to evaluate the existing self-funded plan, provide an assessment, projections and options.

Mr. Browder stated that Mark II was a family business for 30+ years and worked almost exclusively in the public sector. Jackson County had been a client in the past and they currently had over 30 county clients and focused primarily on self-funded health plans. They served 100+ clients in North Carolina, Virginia, Tennessee and Georgia.

He presented: 2019-2020 Renewal Information:

(a) Notes:

- The Plan was currently underfunded based on current and historical claims.
- To look for the best solution, the Plan was bid.
- The options that existed were with:
 - Crescent - Current Administrator
 - MIT – League of Municipalities
 - BCBSNC

(b) Current Plan Design Options:

- Standard/Tobacco
- Enhance

(c) County budget -\$1,450,700.70

Total Cost	Stop-Loss Credits	Net Costs	County Budgeted
\$6,628,229.17	\$342,808.03	\$6,285,421.14	\$4,834,720.44

- The back half of the Plan Year saw significant increase in claims, which produced a significant deficit position, based on the budgeted rates they currently had.
- High Claimants drove the increase.

(d) 2018-2019 Standard Discounted Rates:

	County Monthly Contribution	Renewal Monthly
Employee Only	\$887.00	\$237,716.00
Employee and Spouse	\$1,231.00	\$60,319.00
Employee and Children	\$1,231.00	\$82,477.00
Employee and Family	\$1,363.00	\$65,424.00
Monthly		\$445,936.00
Per Employee Per Month		\$1,032.26
Total		\$5,351,232.00

- The current Plan Year was trending well.
- The challenge was the underfunded position.
- The underfunded position required a significant change in funding for 2019-2020.
- The estimated negative position for 2018-2019 was \$1,200,000.

(e) 2019-2020 Renewal Estimate:

Current Plan Designs	Mature Annual
Claims	\$6,151,377.98
Trended Claims 8% - 17 Months of Trend -11.33%	\$6,889,543.34
Benefit Change	\$6,889,543.34
Annual Employee County	\$5,092.00
Fixed Cost	\$635,583.44
PPACA - Fee for Comparative Effectiveness Research Agency 7/31/19	\$1,573.82
Lasers \$450,000	\$325,000
Renewal Calculation	\$7,851,700.59
County 2018-2019	\$5,256,267.92
2019-2020 Rate Action Projection	149.38%
Dollar Change	\$2,595,432.67

(f) 2019-2020 Renewal Options:

	Current 2019-2020 Crescent - Standard	Renewal 2019-2020 Crescent - Standard	Renewal 2019-2020 Crescent Option 1 - Standard
Current Funding	\$5,256,267.92	\$7,851,700.59	\$7,066,530.53
Change		149.38%	134.44%
Dollar Change	\$6,889,543.34	\$2,595,432.67	\$1,810,262.61
		County \$2,232,072.10	County \$1,556,825.85
		Employees \$363,360.57	Employees \$253,436.77

	MIT Fully Insured 2019-2020 Standard	BCBSNC Self-funded 2019-2020 Standard	Renewal 2019-2020 Standard BCBSNC Option 1
Current Funding		\$7,787,144.35	\$7,008,429.92
Change	167.55%	148.15%	133.33%
Dollar Change	\$3,550,826.47	\$2,530,876.43	\$7,006,397.92
		County \$2,176,553.73	County \$1,506,859.32
		Employees \$354,322.70	Employees \$245,302.68

	BCBSNC Fully Insured 2019-2020 Standard	BCBSNC Fully Insured 2019-2020 Option 1 Standard
Total	\$7,638,964.23	\$7,111,807.83
Change	145.33%	135.30%
Dollar Change	\$2,382,696.31	\$1,855,539.91

(g) Next Steps:

- On a self-funded basis, the funding requirements would dictate an increase in the high 40% range or approximately \$2,600,000 in total. Today, the county bore 86% of the cost of the Plan.
- This was irrespective of either Crescent or BCBSNC as the payor.
- On a fully insured basis, when one takes runout claims into consideration, the funding needs were a similar situation.
- Option 1 for either Crescent or BCBSNC seemed to make the best funding sense, all be it difficult plan design changes.
- One of the decisions to be made was the appetite for risk retention at the county. The county would need to determine what funding strategy it wanted to pursue for 2019-2020, self-funding or being fully insured.
- Presentations from Crescent and BCBSNC would be made the week of March 25th to obtain the best and final proposals, along with determining the best payor solution for the county.

General Discussions were held.

Mr. Adams stated that the quotes were good through March. Did they want to remain self-funded or were they interested in a fully insured option? If they were talking about the self-funded option, they were looking at one option for all employees without the enhanced plan.

Commissioner Luker stated he was in favor of the self-funded option.

Commissioner Woody stated she had no opinion.

Commissioner Deitz stated that he did not know.

Commissioner Mau stated that he was in favor of the self-funded option.

Commissioner Luker stated that under the renewal option 1, the standard and enhanced were the same. Could they not make the standard plan “enhanced” and create a new lower tiered standard plan also because a tobacco user would have the same plan as someone that was trying to be healthy. So both were seeing an increase across the board instead of a portion of employees.

Mr. Browder stated that could be done.

Mr. Adams stated that they would have the two entities provide presentations to staff the last week of March. It sounded like they were going to have a development of a two tiered system, self-funded. Staff would provide a recommendation to the Board of Crescent or BCBSNC. He inquired if the Board wanted to meet again with follow up questions after the staff presentations.

Consensus: *Place an item on the next regular meeting agenda to call for a Special Meeting on March 28th at 2:00 p.m. to further discuss Health Insurance Renewals.*

(7) DSS/HEALTH DEPARTMENT BOARD FORMING RESOLUTIONS: Mr. Adams stated this item was a follow up from previous Board discussions regarding a draft of the potential forming resolutions to create a social services board and a health board. He requested that Ms. Baker draft the documents.

Ms. Baker stated she took the statues that formed these boards, 108A-1 and 130A-35 to draft the documents. She did set the social service board up as a five member board because it was previously, although they choose to have a three member board.

Mr. Adams stated that they did not become effective until the member appointments were made. Chairman McMahan stated he would like this item added to the next regular agenda.

Informational item.

(8) LAND CONSERVATION EASEMENT TRUST POLICY: Commissioner Mau presented:

(a) Two separate issues, but...

- One underlying theme
- From the Sylva Herald 2/21/2019: “The Sylva Herald is a small publication with limited resources. We intend to do what’s necessary, however, to ensure local governments and institutions abide by state ***transparency*** laws.” (Note: bold and italics were added by the presenter).
- Transparency was the issue

(b) Land Conservation Trust Easement Policy:

- Essentials of Government Training...recall
 - Have a written policy (heard this over and over)
- Why have policy(ices)
 - Function efficiently
 - Make sure organizations were following best practices
 - Bring consistency
 - Holds the governmental organization accountable
 - Helps build trust with citizens
 - Legitimizes government by helping the processes run efficiently and maintain trust

(c) Basics of Land Trusts – How They Work (<https://www.propublica.org/article/conservation-easements-the-billion-dollar-loophole>):

- To be eligible for a deduction, land needs to meet at least one of four broadly defined “conservation purposes.” These include protecting “relatively natural” habitats; historic sites or buildings; land for public recreation or education; and open space (including farms, ranches and forests).

- Based on the claimed value of the easement deduction, landowners can deduct up to 50 percent of their income in one year and any remaining write-off over the succeeding 15 years; farmers and ranchers can deduct 100 percent in any period from one to 16 years
 - The landowner can continue to own and use the land as before, and even build on a portion of it, subject to agreed restrictions;
 - By law, a government agency or, more often, a nonprofit land trust, must accept and administer the easement. The trust negotiates the development limits with the landowner, and enforces them in perpetuity.
 - 16 states sweeten the pot by offering state income tax credits, too.
- (d) Land Conservation Trust Easement Policy:
- “Abuse of tax deduction intended to encourage conservation of environmentally important land and historic buildings has cheated the government out of billions of dollars of revenue while doing little to advance environmental protection.” (Looney, 2017)
 - “Earlier this year the Land Trust Alliance (a land trust umbrella organization) noted that the Internal Revenue Service had reviewed 250 conservation easement donations in the State of Colorado alone and found only three that should not be challenged, largely because they may have failed to meet the “conservation purposes” test of the tax code or because the valuation of the easement is suspect.” (Zumbrun and Kassouoni (2007)
 - Example: (below was from Elkind)
 - One example: the former Millstone Golf Course outside of Greenville, South Carolina. Closed back in 2006, it sat vacant for a decade. Abandoned irrigation equipment sat on the driving range. Overgrowth shrouded rusting food and beverage kiosks. The land’s proximity to a trailer park depressed its value. In 2015, the owner put the property up for sale, asking \$5.8 million. When there were no takers, he cut the price to \$5.4 million in 2016.
 - Later in 2016, however, a pair of promoters appeared. They gathered investors who purchased the same parcel at the market price and, with the help of a private appraiser, declared it to be worth \$41 million, nearly eight times its purchase price. Why? Because with that new valuation and a bit of paperwork, the investors were suddenly able to claim a tax deduction of \$4 for each \$1 they invested.
 - Such transactions were booming today, transforming an incentive for charitable gifts into a windfall for the wealthy looking to save big on their taxes. The provision they’re exploiting is the single most generous charitable deduction in the tax code, according to experts.
 - The use of syndicated easement deductions has exploded in recent years, according to Brookings Institution economist Adam Looney, who began researching the subject while serving as a top tax official in the Obama Treasury Department. They cost the Treasury between \$1.2 billion and \$2.1 billion, he estimates, in lost tax revenue last year.
 - US Congress
 - As recently as 2017-2018 session H.R. 4459, Charitable Conservation Easement Program Integrity Act of 2017 was introduced
 - The abuse is a known problem
 - Land Trust Alliance continues to work on eliminating abuse
 - Fear is the tax benefits disappear, then what?
 - “The Alliance has worked for years to counter this abuse, pressing the IRS to shut down these transactions and taking a number of actions to help its member land trusts identify and avoid these deals, all while ensuring honest philanthropy continues to be rewarded. But because these deals continue to be promoted, Reps. Thompson and Kelly introduced the Charitable Conservation Easement Program Integrity Act.”

(e) Draft Policy Development:

- I asked Dr. Adam Looney
 - Joseph A. Pechman senior fellow in Economic Studies at Brookings and the Director of the Center on Regulation and Markets
 - President Obama's Council of Economic Advisers
 - U.S. Treasury Department as Deputy Assistant Secretary for Tax Analysis
 - Other
- In addition to the items from the standards in the draft here were comments from Dr. Looney:
 - From a tax perspective, the most abusive cases are those in which the property owner grossly inflates the value of the property for purposes of the deduction. So you want to make sure that a qualified – and independent – appraiser is involved.
 - You want to make sure you know where the money is going – the abusive cases generally involve a financial windfall to investors (often investors who don't actually own or manage the land). So you want to understand who the beneficiaries of the deal are to make sure there's not something fishy you are missing.
 - Who will hold the easement after the transaction? Is it a land trust? If so are they reputable and capable of maintaining property (in perpetuity!) and enforcing the legal restrictions on the land? (And if it was the county – do you want to have that responsibility?)
 - Is the deal really about conservation? Is the land environmentally important or does it provide substantial public benefit to keeping it undeveloped? Has the land trust's staff examined and vouched for it?

(f) Land Conservation Trust Policy: “Environmental advocates and conservationists have an opportunity to reclaim this benefit and ensure it remains a tool for conservation going forward, but that will require advocating for firmer rules and stronger enforcement for appraisals, a stronger focus on what constitutes conservation and how to promote conservation value, and greater transparency and accountability over these transactions from both donors, appraisers, and land trusts.” Looney Dec 2017

(g) Draft Policy Items:

- Simply need to make sure when the county was asked to participate, it fits with county goals
- In his opinion, he do not think the county would want to be involved with an unaccredited land trust. They should make sure the organizations the county works with meet this criteria
- The first portion simply identifies the portions of the standards the county should use and that apply. The first portion was not redundant.
- Adopting the Standards: To be eligible for LTA membership and its attendant benefits, a land trust must adopt the standards. A land trust does not need to have fully implemented all of the practices in order to adopt the Standards. For LTA purposes, adopting the standards means that:
 - 1. The land trust has reviewed the Standards.
 - 2. The land trust agrees that the Standards were the technical and ethical guidelines for the responsible operation of a land trust.
 - 3. The last trust's board of directors commits to implementing the Standards as guidelines for the organization's operations. In addition, local governments may find Standards 8 through 12, which pertain to land and easement transactions and stewardship issues, useful in shaping their land protection programs. Second part of number 3 – see recommendations for Dr. Looney
 - 4. Why see the application. There were often other opportunities the county may be willing to commit to that improves grant scoring (i.e. educational partnerships, recreational uses).

- 5. Could likely be combined with item number 1
- 6. See Dr. Looney's recommendation about beneficiaries
- 7. Allows them to conduct own if county wishes. Should this be mandatory? What if valuation exceeds those as discussed in item 3.
- 8. Lost tax revenue should be considered in the process and the appropriate calculation made. This could be used in a variety of manners in the negotiation process.
- 9. See Dr. Looney's comments.
- (Example – CO)
- 10. Other items? Pct.?

(h) Policy Items – Documentation:

- All items shall be addressed and report addressing the proposed trust agreement will be provided to County Manager. County Manager shall review the report for completeness, verify all required items have been addressed and have staff address any issues outstanding requirements. Once staff has addressed any edits suggested by County Manager, final report will be provided to Board of Commissioners. At a minimum, said report will address all issues related to the above policy. Other supporting documentation may be beneficial.
- Board of Commissioners shall review report and schedule public hearing. At next regular Board of Commissioners meeting held at least one week after the public hearing, the Board of Commissioners will take action related to approving or not approving the subject land trust agreement.

(i) References:

- Looney, A. (May, 2017), "Charitable Contributions of Conservation Easements." Retrieved from Brookings Institution Website: https://www.brookings.edu/wp-content/uploads/2017/05/looney_conservationeasements.pdf
- Looney, A. (Dec, 2017), "Estimating the rising cost of a surprising tax shelter: the syndicated conservation easement," Retrieved from Brookings Institution Website: <https://www.brookings.edu/blog/up-front/2017/12/20/estimating-the-rising-cost-of-a-surprising-tax-shelter-the-syndicated-conservation-easement/>
- Zumbun, R. and Kassouni, T. (July 20, 2007) "The Uses and Abuses of Conservation Easements," The San Francisco Daily Journal: <https://www.kassounilaw.com/publications/the-uses-and-abuses-of-conservation-easements/>
- Elkind, P, (December 20, 2017), "The Billion-Dollar Loophole,": <https://www.propublica.org/article/conservation-easements-the-billion-dollar-loophole>
- Conservation Tools.Org, Pennsylvania Land Trust Association: <https://conservationtools.org/guides/22-land-trust-accreditation>
https://conservationtools.org/library_items/86

General discussions were held.

Mr. Adams stated that he was hearing the following:

- 1. Meet the current goals and objectives, but allow for expansion for new objectives.
- 2. Must be accredited by the Land Trust Alliance.
- 3. Determine the difference between membership and accreditation. Add language regarding the ability to appraise regarding value.
- 4. Board to see the actual grant application.
- 5. County staff to offer an opinion.
- 6. He thought they had gone away from his item, but check with Mainspring.
- 7. Evaluation and doing the county's own appraisal.
- 8. Make sure they recognize the value and give credit for the value.

- 9. Vetting the people holding the easement. Someone to pay the county for the maintenance to hold an easement. Also, add a reversionary clause.

Consensus: *In general agreement. Staff to start working on a policy.*

(9) ONLINE FINANCIAL INFORMATION: Commissioner Mau presented Open Checkbook Transparency:

(a) 12/17/2018:

- Auditor Report
 - Two items
 - Review the documents
 - \$1.4 million issue with health plan

(b) Reviewed the documents, noted large variances in some items (examples)

- positive 3.0 million human services
- negative 0.55 million for public safety

(c) Looked for detailed information on line to address questions/concerns

- Jackson County does not have the data available
- One way to improve transparency and make more information available:
- “Open Checkbook Law” would be a start

(d) Asked County Manager about audit statement and large variances – early January

- Reportedly Public Safety charged the 1.4 million for health insurance deficit
 - Why?
 - Who Authorized?
 - Why did BOC not know about this until audited report Submitted in December 2018?
 - He asked how would general public know about the 1.4 million?
 - Audited Report
 - Compliance Reports
 - Report to the BOC

(e) Those with budget responsibilities benefit

- Easy access to data
- Look up themselves
- Public has improved access to data
- How much was county spending locally
- Fulfills intent of the law
- Which funds
 - General
 - Health Insurance

(f) Open Checkbook Transparency:

- 1.4 million
- No answers
- No data publicly available
- Certainly do not comply with intent of state law
- Not consistent with the goals of Sunshine Week
 - (Is there a better week for them to step up and move forward on this?)

Commissioner Mau provided an Open Checkbook example from Buncombe County.

General discussions were held.

Mr. Adams stated if the Board wished to proceed forward with a model similar to Buncombe County, the direction would go to the Finance Office to contact the current vendor and use this as an example and then bring in potential other vendors to try and build out the system. They would then come back to the Board with proposals. This was a different conversation than a PDF checkbook online, this would be an interactive system.

At that time, there was no indication that the state would follow through with its part of the state law. If the intent of the law was for the state and counties to eventually have some type of website, was the Board interested and if so, was the Buncombe website a model.

Chairman McMahan stated that if they were going to do this, he would prefer it be like Buncombe County's searchable site and he would support that.

Consensus: *Staff to start the process to proceed forward to determine vendors and resources using the Buncombe County system as an example.*

(10) OTHER BUSINESS:

(a) Commissioner Woody stated that she spoke with Norma Clayton, Emily Burnette and to SCC to launch an ongoing litter campaign that would follow up to Cleaning Up the Mountains. She proposed that the county offer a prize to an SCC student to develop an ad campaign in their commercial art group. The ad would encourage citizens to take personal responsibility for picking up trash in the communities. They would hope to use billboards and stickers to keep a constant idea of each person's responsibility to keep the communities clean. She requested that the county offer a \$200 prize.

Consensus: *Add this item to the next regular meeting for consideration.*

(b) Commissioner Woody stated that she and Shelley Carraway, Health Director and others at Animal Control had extensive conversations about the Dangerous Dog Ordinance because of a situation with a citizen. The ordinance needed to be clarified and given teeth, which would be for the Health Board to look at.

Ms. Baker stated that the ordinance did allow for quite a bit, but the citizen would have to participate as well. However, it did need to be reworked.

(c) Commissioner Luker inquired about the new entrance sign for the Justice Center.

Mr. Adams stated the sign was built and they were awaiting installation.

(d) Commissioner Luker stated that they had discussed Riverview Baptist Church in Dillsboro at the work session retreat and he wanted to keep that on the radar.

(e) Commissioner Luker stated they had previously discussed listing on the tax bills the percentage of where the tax dollars went. He wanted to look at that.

(f) Commissioner Mau stated that someone approached him regarding the Fairview Robotics Team going to state. He thought they helped Fairview and the high school last year.

Informational item.

There being no further business, Commissioner Mau moved to adjourn the meeting. Commissioner Luker seconded the Motion. Motion carried and the meeting adjourned at 4:54 p.m.

Attest:

Approved:

Angela M. Winchester, Clerk to Board

Brian Thomas McMahan, Chairman