

**MINUTES OF A
REGULAR MEETING
OF THE JACKSON COUNTY
BOARD OF COMMISSIONERS
HELD ON
AUGUST 06, 2019**

The Jackson County Board of Commissioners met in a Regular Session on August 06, 2019, 6:00 p.m., Justice and Administration Building, Room A201, 401 Grindstaff Cove Road, Sylva, North Carolina.

Present: Brian McMahan, Chairman	Don Adams, County Manager
Boyce Deitz, Vice Chair	Heather C. Baker, County Attorney
Mickey Luker, Commissioner (via speakerphone)	Angela M. Winchester, Clerk to Board
Ron Mau, Commissioner	
Gayle Woody, Commissioner	

Chairman McMahan called the meeting to order.

(1) **AGENDA**: Chairman McMahan requested to add one item: Erosion Control Issues. Commissioner Mau moved to approve the amended agenda. Commissioner Deitz seconded the Motion. Motion carried.

(2) **MINUTES**: Commissioner Woody moved to approve the minutes of a Work Session of July 09, 2019; a Regular Meeting of July 16, 2019; and a Joint Meeting with Municipalities of July 23, 2019. Commissioner Mau seconded the Motion. Motion carried.

(3) **CHAIRMAN'S REPORT**: Chairman McMahan stated that he had an opportunity to volunteer to assist the animal shelter with an animal transport to Pinellas, Florida. The transport was so that the dogs could go to adoptive homes. The journey was about 1,300 miles and a 22 hour non-stop trip with two drivers and 21 dogs. He encouraged anyone to participate or if they could not go, to donate or foster.

(4) **COMMISSIONER REPORTS**:

(a) Commissioner Deitz stated that the tragedies in El Paso, Texas and Dayton, Ohio were senseless and heartbreaking. He hoped that there was some way that they could all come together better than what they were.

(b) Commissioner Woody stated that she and Commissioner Mau attended Southwestern Commission's annual dinner. It was a nice event and it was great to connect with the other seven western counties.

Also, any day they should see the billboards up for the Litter Campaign. They did receive their first donation from a business, Craig Smith from The Wine Bar in Sylva and also Bear Lake Reserve. They would be talking with Ann Self and Julie Spiro of the Chambers about businesses becoming partners for a \$100 donation. The businesses would receive a sticker with the logo on it to be placed on their door to say that they were partnering with the litter campaign. The tag line would be "Let's all put litter in its place. This would be an ongoing campaign and they would use the funds to buy the PR materials. They were hopeful that this would encourage all to take responsibility for keeping the county litter free.

(c) Commissioner Luker stated that if people could not make the trip with the animals or donate, they could at least spay or neuter their animal, which would help the cause.

(d) Commissioner Mau stated that he did attend the Southwestern Commission dinner and it was always fun to go to. TWSA gave an update at the joint meeting last week and the big issues with TDA were on the agenda that evening.

(5) **COUNTY MANAGER REPORT**: Mr. Adams provided an update on the Animal Rescue Center. A series of meetings were held in July with multiple groups, staff and the architectural firm participating.

(a) The Jackson County Animal Rescue Center mission statement: The Animal Rescue Center was a community hub advocating for ongoing advancements in animal welfare. With focus on outreach, education and programming. The new Animal Rescue Center would motivate responsible pet ownership and lifelong commitment to the humane treatment of animals.

The new facility would not only serve this mission, but would integrate into the larger Green Energy Park to promote community and volunteer engagement, nonprofit partner involvement and to provide healthy spaces for people and animals in a park-like setting.

The mission was developed in response to two visioning meetings. The first meeting was an information gathering session with county employees, staff and other partners of the Animal Rescue Center, discussing mission, goals, concepts, facts, needs and problems. The second meeting was a review of the mission followed by imagery and diagrams to show new ideas for the facility regarding interior/exterior connections, programming and aesthetics. The space needs of the facility were reviewed and confirmed, allowing the design team to move forward with schematic design.

The design team visited the existing animal shelter as well as the Cashiers-Highlands Humane Society. Plans for the new facility would enhance the current workflow and support more efficient and healthier animal spaces. The majority of comments from the stakeholder meeting involved the future of the Animal Rescue Center being focused on community. A flexible community and event space would be considered a priority at the Animal Rescue Center to promote community involvement and increase foot traffic on the site, boosting the success of the Rescue Center.

(b) Goals:

- Find ways to keep animals out of the shelter
- Low cost neutering/public awareness
- Motivating people/groups/events to come on-site
- Continue momentum of positive public image
- Increase student volunteer involvement
- Potential future spay/neuter clinic
- Keep facility open admission
- Create community hub, visually and programmatically appealing to people in the county.
- Maintain positive organizational policy and partnerships while developing the facility to further integrate these values.
- Design a destination as an integral part of the Green Energy Park.
- Provide unique educational programs to the community to develop and promote responsible pet ownership for all ages.

(c) Existing conditions: Photos of the existing shelter were shared.

(d) Case studies:

- Build a magnet
- Existing condition inspiration
- Unique elements
- Community events
- Dog wash
- Park presence

(e) Next steps: Mr. Adams stated that they were identifying what people were saying they wanted and putting it in the space that was available. If they did not like the numbers being presented in the budget they had, then they had to talk about what the options were. This would be the next conversations to occur. The architects understood that they were working within a 10,000 square foot building. They would have to go through the process to start having those conversations as they went through the next schematic phase.

Commissioner Woody stated that she certainly saw the advantage of having the community room. If that space could be designated as a community room in the initial design and then when they got to the phase of building where they had the innovation center and those types of things, those would also have community rooms. This community room could then possibly be changed into something else that was important to the animal rescue. Was that a possibility?

Mr. Adams stated that was a good concept and idea. They did need that space to be dedicated to a non-animal holding space and talk about a design where that space could be converted.

Commissioner Woody stated she thought that would be helpful and give more options down the road.

Mr. Adams stated this was an update of where they were in the process. He would now email the information to the participants and would then go to the next steps. It would take approximately six weeks to get the schematic design. They would then eventually proceed forward with cost estimates. Then they would have what they could build with the amount of money allocated. If the numbers ended up where they did not believe it was enough kennel space, then the alternatives were a couple of things. They could spend more money and build it larger or reduce some of the other facility options.

Chairman McMahan stated that there would never be enough kennels. The bigger question would be how to encourage spay/neuter and decrease the population coming in. If they could not figure out how to solve that problem, it would not make a difference on how many runs or kennels they had. He thought they needed to figure out the number that was suitable for operational needs, because it would not meet space needs.

Mr. Adams stated that got this to the point of making this a community hub and getting more involvement. The methods to decrease the transports would be to increase the spay/neuter program and/or increase adoption. There were options and expandable space.

Commissioner Woody stated she appreciated that they included the nonprofits in the planning, because they were key to the future of the whole concept and education.

Informational item.

(6) PLANNING BOARD REPORT: Bonnie Claxton, Chair, stated she had been on the Planning Board since 2015 and the Chair in 2019. A few items they had been working on:

(a) The Unified Development Ordinance, which was on the agenda for consideration. The staff worked very hard putting this document together. She thought it would make things a lot easier for citizens and staff to apply the laws of the county regarding planning.

(b) They had seen an increase in subdivision plans for review.

(c) At the last Planning Board meeting, some members voiced concerns about seeing the river running red. Staff did a great job explaining the most recent incident and the state's response versus the county's jurisdiction. The Planning Board would be interested to have more discussions about this topic in the future.

Informational item.

(7) INFORMAL COMMENTS BY THE PUBLIC:

(a) Cathy Stillwell Gibson of Whittier, stated she was new to the “Say no to the Road” Facebook group, which had over 800 members now. From a layman’s standpoint, people in the group were really not understanding that they had Town Commissioners and they had County Commissioners. There were many comments crediting the County Commissioners with initiating the improvements to 107. She had become aware that it was the six member town board that went to DOT. Some education needed to be done, unless the County Commissioners wanted to get credit for it.

(b) Pam Krauss of Webster, stated that she had attended two previous Commissioners’ meetings requesting help with speeding and the truck route that formed on River Roads. The group, Citizens for River Road Safety met with NCDOT, as suggested. She thanked Commissioner Mau for visiting on-site and taking the time to listen to their concerns.

As a follow up, the direction suggested was increased enforcement. They requested this from NC Highway Patrol and the Sheriff, who was quoted in the Sylva Herald on July 18th as saying “unfortunately we have enough to do with the drug problems in the county”. They did not doubt that. Since the Commissioners set the budget for law enforcement, they requested the consideration of earmarking in the budget for traffic enforcement personnel to address community concerns. She requested they continue to evaluate for other relief. The county was using River Road as a draw for recreation and tourism, but ignoring the hazards that were created by the speeders and truck route. They felt that was a recipe for disaster for someone getting hurt.

Commissioner Woody asked when they talked with DOT, did they say anything about reducing the speed limit?

Ms. Krauss stated that NCDOT performed a speed study as a result of a request from the Mayor of the Town of Webster. The formula that was used basically recorded the speed of all the vehicles using the road and made a determination of the 85th percentile of all the vehicles and used that as a gage to set the speed. As a result, NCDOT suggested that they could raise the speed limit on the road.

(8) STORMREADY COUNTY: Todd Dillard, Emergency Management Director, stated that he tasked his intern in the spring, Megan Nicholson, to set up and get the county qualified as a StormReady County through the National Weather Service. He introduced Lauren Carroll, Meteorologist with the Greenville-Spartanburg National Weather Service.

Ms. Carroll stated she served the Jackson County area and was pleased to be there to recognize the county as StormReady through the hard work of Mr. Dillard, Ms. Nicholson and the Emergency Management staff. This was not an easy process as there was a different formula for each county. It was up to them to devise a plan to enhance communication of hazardous weather warnings and make sure that in public spaces, people would be able to get ample notification of any warnings. There was also an educational aspect as well.

She designated Jackson County as StormReady and stated that the mission of the National Weather Service was to protect life and property. They appreciated the work of Mr. Dillard and his staff and presented them with a certificate of recognition and signs to be placed on the roadway upon entering the county.

Informational item.

(9) EROSION CONTROL ISSUES: Chairman McMahan stated he and other Commissioners had received multiple phone calls, emails and visits concerning erosion sedimentation in the waterways, mainly the Tuckasegee River and the tributaries that fed it. They had tremendous rains that year in county with several inches of rainfall in a matter of a few minutes. It was hard to do anything with that amount of water, but at the same time, they had some construction sites that were active and had produced erosion that had filled the streams.

He wanted to have an opportunity to hear a report from staff about what was the appropriate response for the general public with where to call and what county staff was doing. Also, what had been done in some of the high profile cases. From everything he had seen, county staff had done a tremendous job and he applauded the work of code enforcement and erosion control as they had been on top of this.

Mr. Adams stated that as the Board was aware, as the instances had been occurring, Permitting and Code Enforcement had been providing them with information and he had been providing that information to the Board through email. A few weeks ago he informed the Board that Permitting and Code Enforcement had just obtained their recertification for them to continue with the County Erosion Permitting Program. This was not standard practice in the state, but Jackson County had the ability, in most cases, to go out with enforcement with these types of issues. The last couple of cases they had been dealing with did not fall under the authority of the county Permitting and Code Enforcement.

Tony Elders, Permitting and Code Enforcement Director, stated that in 1973, North Carolina adopted the Sedimentation Pollution Control Act, which established the first erosion control regulations in the state. It was handled mostly by the state on sites with more than one acre of disturbance up until the mid to late 90's. Jackson County was one of the first in the western part of the state to become a delegated local program. They were provided salary for one erosion control officer and one vehicle for one year. Then in 2004, they took a second delegated program to bring in the municipalities. The state ordinance established one acre as the threshold. There were very few house sites in the county with more than one acre of disturbance.

In 2007, just after adoption of the subdivision and slope ordinance, they amended the erosion control ordinance to be a one-half acre threshold. If the site was less than one-half acre, they were not required to get a permit for erosion control as it was under the threshold. They asked them to notify the county of the land disturbing activities, so they try to monitor those as well. The county's erosion control ordinance was based on the model state ordinance. They were not allowed to be more lenient, but they could be stricter. Everything set up was designed for a 25 year storm, but in the last month they had three to four events in the local area that exceeded the 25 year storm.

Any projects conducted by the state or federal government, had to be conducted by the state. This was what they had went up against recently. The apartment complex near WCU that was currently under construction on Little Savannah was the first one they had where WCU owned the property. The state came to that one and had a preconstruction meeting in February and did not come back until June, which was part of the issue.

Since the R5000 SCC project, unless they were short on staff, every business day, County Staff went from the Swain County line to the forks of the Tuckasegee River and took date stamped pictures of every major tributary. If they saw sedimentation, they tracked it that day to find out where it came from. On June 11th, he saw the river and traced it to Cullowhee Creek and that was when they started the process to try and get that site under control. The site was Millennial Apartments with 19 acres of disturbed land. When the state got there, Water Quality placed them under two different notices of violation. As of that day, he was informed that both of those had been lifted now that they had made remedial measures. They would now release the building permits and begin doing building inspections. They continued to monitor the radar every day for any rain with the large sites.

In April, they went to High Hampton, where they were rebuilding the entire golf course, but they had not had a single issue there. They had done a great job. In defense of the state, they had 22 counties and a small staff. Their idea of coming out regularly was maybe once per month. The county office had been struggling some with the loss of Robbie Shelton as he was integral to the erosion control program. They did have a staff person in place being trained. They did encourage people to call in. Since last Monday, they had 57 complaints called in and Steve Beasley, Chief Erosion Control Officer was the only person to respond.

Commissioner Luker commended Mr. Elders and Mr. Beasley for the excellent job they did. He heard a lot of complaints and feedback from people criticizing contractors and why the erosion department was not doing this and that. He thought Mr. Elders just explained it very well. The contractors were doing exactly as instructed and had shared with him that during some of the brief instruction meetings that storm measures were not sufficient, would probably not be enough if they continued to have the type of weather they had been having and those went to deaf ears.

Unfortunately, the state only had a limited number of staff for the 22 counties and he thought that needed to be commended back to the county department and the fact that Mr. Elders and Mr. Beasley listened to individuals, engineers and others in the preconstruction meetings at what they had to say. He thought that spoke highly on the county department of how strong they could be and their commitment. These guys lived right where they monitor, so they definitely had the county as the best interest. He thought that was what happened when it was taken out of the county's hands and what it would lead to. He thought the county department should definitely have a lot more input than what they did with those scenarios.

Chairman McMahan stated that he knew they were doing everything they could. Was there anything the Board could do to help them?

Mr. Elders stated they could attempt to communicate with state and if development continued the way it was, they would need more staff. They encouraged folks to continue to call. The state also had a number 1-866-STOPMUD, which went to Raleigh and took a longer time to filter back out. They would get a quicker response to call directly to the county office.

Commissioner Woody commended the local office as she felt they were really on this and doing all they could, but she did take issue with one comment Commissioner Luker made that the contractors were doing everything they could. She personally knew that they were not because she had been out to those sites. When the silt fence was not even touching the ground and she had pictures of mud flowing under silt fences into the creek in Cullowhee. They were not doing what they were required to do, that was why they had been cited for violations. She was concerned that they had been cited at least three times, April, June and now July and they were not fined. She felt that if they were cited in April and again in June, obviously that was not enough for them to change their behavior. She knew it was not the Permitting and Code Enforcement Office's fault, but she wanted to make this public comment because she felt the state people – and she knew they were very busy, but the river was a treasure in the community and they needed to protect it. If the only thing that was going to change their behavior and require them to follow through on the ordinances that were already in place – fines may be the only thing because obviously the citations were not changing their behavior.

She spoke with Mike Byers of WCU and he admitted to her that they did not have silt fences in place before they were excavating, therefore, all that happened. The state came in and saw all that they had done and saw the silt fence was there, but they did not know the date it was put in. She was pleased that Mr. Elders' office took pictures with dates. She felt like that they, as Commissioners, needed to hold these contractors accountable. They needed to say to the state that these violations were continuing and there did not seem to be any teeth in the citations, so maybe they needed to consider them being fined. The ordinance stated fines of up to \$25,000 per day. She had gotten emails from Stan Aiken and Tim Fox. They had been very good about following through when she asked questions, but she did not see behavior changing.

Commissioner Luker stated that there was a difference between a developer and a contractor. The local contractors they had in Jackson County were doing their jobs and doing exactly what they were told. They needed to be very careful in who they were pointing a finger at, at the end of the day because he knew those boys first hand and he knew they cared. When they were standing there looking him in the eye and said they addressed that and spoke and said that would not work and this was what was going to happen if they had that type of weather pattern, then that was who he was going to believe. He was going to stand in support for those guys any time.

Commissioner Deitz stated that they were not blaming the Permitting and Code Enforcement office, they were doing their job, but they were going to get blamed for it. The whole thing was that the river was running red time after time, continual and Scotts Creek was as bad as the river.

Mr. Elders stated that the fines within the ordinance were \$5,000 per day. If it was an active work site where they had started building, if they had issued a notice of violation, they had up to 30 days to respond. If there was a building going on, they stopped the building inspections and they got an instant response out of that usually and they addressed the situation. The fine process began after the notice of violation. He could look at that with Mr. Poston and Ms. Baker to maybe have the fine process start sooner because it was a cumbersome process to get to the point of fines within the county ordinance.

Commissioner Woody stated that she thought the evidence that Mr. Elders and Mr. Beasley mentioned about what they were doing at High Hampton, they were moving a tremendous amount of dirt, but they were following the protocols. She understood what Commissioner Luker was saying, there was a difference between a developer and a contractor, but the developer was responsible. She felt that to be stewards in their responsibility as Commissioners, they needed to hold those people accountable and let them know from the state that what was going on was not acceptable.

Mr. Elders stated that one hurdle may be that the fines were given to the property owner and in that case, it was WCU and that could be where some of the hold-up was at the state level, a reluctance to fine the university.

Commissioner Deitz stated that they had climate change, they really did and it was going to get worse probably. He wondered if some of the developers knew what they were getting into coming to the mountains to develop property.

Mr. Beasley stated that regarding the site in Cullowhee, it was rated for a ten year storm. Since they had the problem, they went back and redesigned the site to a 25 year storm. He stayed in contact with Asheville almost daily with Mr. Aiken and Mr. Fox. They had more teeth than the county and he appreciated all help they could give them because they needed it.

Commissioner Woody stated she was in close contact with the property owner below that site. Her property had impacts that could be very long-term, so it was not just the runoff into the river. She felt a huge responsibility for the citizens as well.

Mr. Beasley stated they did also because that was a Jackson County resident and they did monitor those streams.

Mr. Elders stated that he thought that with some tweaking of the ordinance with off-site sedimentation from a state site, they possibly could issue some fines as a county once they crossed the property line. They could look into that.

Chairman McMahan stated they would work with staff to address that and investigate it. They would also follow up with the state officials regarding fines to the university or whoever it may be.

Informational item.

(10) SOUTHWESTERN COMMISSION ANNUAL REPORT: Sarah Thompson, Executive Director, stated that once a year, she visited each of the County Commissions in the region to give an update and distribute the most recent annual report. The Southwestern Commission was the Council of Government (COGS) for Region A, which was the southwestern counties west of Haywood County and the 17 municipalities within. They had been around since 1965, providing service in the region when federal programs that brought aid to the local communities were put into place. Regional organizations were determined to be the most efficient way to get those federal funds to the local level.

They ran three primary departments:

- Area Agency on Aging
- Community Economic Development Department
- Workforce Development Department

They raised their local funds through per capita dues, which the county paid each year. It was approximately \$30,000 from the county that year. They then received matching federal funds that brought in about \$6mil.

Regarding the NC107 project, there was more traffic in the county and there were only a few ways to get from one point to another. It was a painful process and a painful project, but there was nowhere else to put roads in the county as they were geographically restricted. This had been many years of study and many years to get funded. These were state infrastructure funds and this was important to the function of the communities. She had seen the growth projections and traffic models and would appreciate support of the infrastructure.

They also had a revolving loan fund available to help businesses. When it made sense to study things on a regional scale, they tried to take that on as well. The two they were doing at the time were broadband and housing. They were getting ready for a second phase of a regional study that would focus on wireless, which was a good solution in rural areas. Also, boards were acknowledging there was a housing issue in the region with affordability and the type of housing. They were working with each local government conducting housing studies.

The next meeting would be September 23rd in Cherokee.

Informational item.

(11) TOURISM DEVELOPMENT AUTHORITY REQUEST: Ann Self, TDA Chair, stated that she presented at the work session in July regarding the request to transition all of the TDA's employee positions, including the Executive Director position and the future hire of a Sales and Marketing Manager, to be employees hired and managed by the TDA. These positions would no longer be county employee positions and would have an effective date of September 1, 2019.

This motion was approved at the TDA Board meeting last week, so they were bringing it to the Board of Commissioners for approval. Also, with the approval of the second motion, which was to authorize the Executive Committee and Finance Officer to approve the setup of all the necessary structures, to include benefits, human resources, payroll and associated items necessary for the transition and to allow the TDA Chairman to sign the initial contracts. The approval of the Executive Committee and Finance Officer without the full board approval, due to time constraints, but keep them informed, so that they would have the human resources framework in place by September 1st. That was the request before the Board.

Mr. Adams stated that at the work session, there were two parts of the conversation. One was personnel and one was expenses. He had requested that the TDA consider the transfer of accounts payable out of the county finance office to a vendor. They requested that this remain with the finance office. They wanted the payroll out and keep expenses with the county.

He believed that whether they made the decision during that meeting that day or not, he believed that eventually they did need to transition all payroll and expenses to the TDA for them to operate formally as an independent entity. There were two questions before the Board. Were they agreeable to transfer the positions to TDA, as presented? The second was did they wish to proceed forward with the expenses, as he had discussed? If that was the case on the second question, he wanted to eventually place this on an agenda with a timeframe, so that it was not an open-ended conversation.

Commissioner Mau stated that this was really a first step in the long-term goal.

Motion: *Commissioner Mau moved to transfer all existing Jackson County TDA Positions under the authority of Jackson County, being the Executive Director and the Sales Marketing Coordinator positions, to the authority of the Jackson County TDA effective 11:59 p.m., August 31, 2019 and hereby terminating the county positions as of that date and time. Chairman McMahan seconded the Motion. Motion carried by unanimous vote.*

Mr. Adams inquired of the Board if he should put the expenses issue on a future agenda for further discussions with the Board?

Consensus: *Yes.*

(12) UNIFIED DEVELOPMENT ORDINANCE: Michael Poston, Planning Director, stated this item was discussed at the work session. All planning councils held public hearings and recommended approval of consistency statements to the Board for the adoption of the UDO. Also, after the Cashiers Planning Council meeting, the recommended change to the text of the ordinance was approved.

He noted that the public hearing in Cashiers also covered changes in the Cashiers regulations. Those were regarding establishing maximum setbacks, which would bring buildings closer to the road to create the village type feel that the Small Area Plan recommended. Also, they included reducing and eliminating some buffer requirements that allowed those recommended in the Small Area Plan as action steps to help develop the type of village feel, especially in the core crossroads area. Those proposed amendments were included in the UDO for consideration.

A public hearing was held prior to this meeting with no public comment. He requested consideration to adopt the UDO along with the associated maps and the consistency statement.

Motion: Commissioner Mau moved to adopt the Unified Development Ordinance, associated maps and Consistency Statement, as presented. Commissioner Woody seconded the Motion. Motion carried by unanimous vote.

(13) JURY COMMISSION:

Motion: Commissioner Deitz moved to reappoint Norma Clayton to serve another two year term on the Jury Commission. Commissioner Mau seconded the Motion. Motion carried by unanimous vote.

(14) PRESS CONFERENCE: None.

(15) CLOSED SESSION:

Motion: Commissioner Mau 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; and G.S.143-318.11(a)(6) Personnel. Commissioner Woody 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 Mau moved to adjourn the meeting. Commissioner Woody seconded the Motion. Motion carried and the meeting adjourned at 8:44 p.m.

Attest:

Approved:

Angela M. Winchester, Clerk to Board

Brian Thomas McMahan, Chairman