

MACON COUNTY BOARD OF COMMISSIONERS
MARCH 6, 2006
MINUTES

Chairman Bryson convened the meeting at 6 p.m. All Board Members, the County Manager, Deputy Clerk, Finance Officer, Staff Attorney, members of the news media and interested citizens were present. Commissioner Shepherd gave the invocation.

ADDITIONS/ADJUSTMENTS: Upon motion by Commissioner Simpson and seconded by Commissioner Leatherman the Board unanimously voted to add to the agenda personnel concerning the staff attorney position. Upon motion by Commissioner Simpson and seconded by Commissioner Shepherd the Board unanimously voted to add discussion of the county manager position to the agenda.

PUBLIC SESSION: Bobby Koppers stated he was speaking as a representative of the Democratic Party, himself and another group - - county employees. Mr. Koppers expressed concerns about the county's personnel policy that restricts county employees from running for county commissioner and states if employees file for partisan office they must take leave from the time of filing. He expressed concerns that the policy had not been enforced in recent elections and requested review of the policy which, in his opinion is borderline illegal and unconstitutional.

Dan McGaha stated he grew up in Macon County with National Forest land and the Needmore area as his playground, that National Forest land is dwindling and it is vital to the county and protects our water source(s). Mr. McGaha encouraged opposition to the recent proposal to sell USFS lands.

Narrell Kirklund stated extraordinary times demand extraordinary leaders and also requested the Board to resist the proposal to sell USFS lands.

MINUTES: Upon motion by Commissioner Davis and seconded by Commissioner Leatherman the Board unanimously approved the minutes of the January 9th, February 2nd, February 6th meetings and the January 24th DOT public hearing as submitted.

HOUSING: Housing Director Rick Norton presented a progress report on the County's CDBG Scattered Site Rehabilitation project and a status report on the recently established County Housing Department. Mr. Norton also requested appointment of a Housing Advisory Board which is necessary for application of additional funding through state agencies such as CSBG grants.

A fifteen person board was recommended with five representatives from three groups: representatives of low income client base, public elected officials of their designated representative and private/business organizations. Commissioner Leatherman made a motion to establish a Macon County Housing Advisory Board, subject to the definition of the composition/establishment of the Board by the Staff Attorney following grant regulations and consisting of five representatives of government/elected officials (or their designee) (Building Inspections, Health Department, Social Services, Planning and Housing Department), five representatives of the business community (Jim Garner, Wayah Agency; Ricky Snyder, Community Management Corporation; Roger Pl emmons, Macon Bank; Melissa Wal droop, Duke Power; Representative from Highlands) five representatives of the low income client base (Vanessa Bail er, Carenet; Louetta Dills, Adult Day Care; Jeff King, Baptist Men's Association; Tom England, Rural Development; Bill Gregory, Nantahala Community). The motion was seconded by Commissioner Shepherd and all favored.

6:30 P.M. - CELL TOWER HEARING: Chairman Bryson recessed the regular meeting to convene the public hearing on a cell tower application from Cingular

Wireless for a tower in the Scaly Mountain Community at 7117 Dillard Road (parcel #0600414) as noticed.

Dennis Gowan stated his property adjoins the proposed site and he did not receive proper notification as required by the ordinance. He added his neighbor did not receive notification either and in accordance with Section 154.09, Item 2(a) of the county ordinance the hearing can be postponed until all adjacent or abutting property owners have received proper notification.

Jonathan Yates representing Cingular Wireless stated they had sent out 100 notices by certified mail, that Macon County has one of the toughest ordinances in the state and they had followed all requirements of the ordinance. However, Mr. Yates requested thirty days to work out problems with property owners.

Darrien Gillet representing the property owner (Carl A. Newman Trust) gave examples of emergency situations when cell service was not available in the Scaly area and advocated the need for a tower in the area. The hearing was closed and the matter was tabled by consensus.

RECREATION: Franklin Recreation Commission Chairman Matt Bullis reported the Commission had voted to request the Board of Commissioners to grant the Recreation Commission the authority of an appeals board for recreation activities in the Franklin area that are held on county property. He added the request would include permission to hear appeals that are made concerning decisions of the recreation staff and allot disciplinary action. Upon motion by Commissioner Davis and seconded by Commissioner Leatherman the Board unanimously voted to amend the Franklin Recreation by-laws.

Mr. Bullis presented another request on behalf of the Recreation Commission asking the Commissioners to form a Macon County Recreation Commission to be responsible for county-wide recreation activities, more specifically to carry out the recently adopted Recreational Plan.

USFS LAND SALE: Commissioner Leatherman made a motion to adopt the attached resolution opposing the sale of USFS lands in Macon County. The motion was seconded by Commissioner Simpson and all favored after each member expressed their concerns and/or opposition to the proposed sale. (Attachment #1)

JULY MEETING: Upon motion by Commissioner Davis and seconded by Commissioner Leatherman the Board unanimously voted to change the July meeting from Monday July 3rd to Monday July 10th at 6 p.m.

CLOSED SESSION: The Staff Attorney advised the Board to convene in closed session to discuss a matter involving potential litigation with Robert Siler, Attorney for the Macon County Fruit and Vegetable Growers Cooperative. Commissioner Shepherd made a motion to go into closed session for the purpose recommended by the Staff Attorney. Commissioner Simpson seconded the motion and it passed unanimously. The Board discussed the legal methods by which the County and the Cooperative could resolve issues arising out of the disposition of the real property titled in the name of the Cooperative without taking action. A motion was made by Commissioner Simpson, seconded by Commissioner Davis, to reconvene in open session.

FRUIT AND VEGETABLE GROWERS COOPERATIVE: Upon reconvening in open session, Commissioner Davis made a motion that the County Manager, with the assistance of the Staff Attorney, proceed with any legal measures necessary for the County to divest its interest, if any, in the real property titled in the name of the Cooperative. The motion was seconded by Commissioner Simpson and passed unanimously.

PERSONNEL: Staff/County Attorney – The Board discussed the difference and/or advantages of staff attorney and county attorney noting that a County Attorney works directly for the Board of Commissioners rather than as a staff member working under the direction of the County Manager and duties are outlined by General Statutes.

Upon motion by Commissioner Simpson and seconded by Commissioner Shepherd the Board unanimously voted to change Rick Moorefield from Staff Attorney to County Attorney effective immediately. County Manager – Chairman Bryson stated the Board had discussed the County Manager's retirement and a plan to find a replacement.

The need for an overlap of managers during the budget process, advertisement of the position and the current manager's actual retirement date were discussed with no action being taken and the item being tabled until a later date.

LEGAL: Gen & Mineral Society Lease – Upon motion by Commissioner Leatherman and seconded by Commissioner Simpson the Board unanimously voted to adopt a resolution approving the lease of real property to the Gem & Mineral Society per attachment #2. West Macon Fire and Rescue, Inc. – Commissioner Shepherd made a motion to adopt a resolution approving the lease of real property to West Macon Fire and Rescue, Inc. per attachment #3. The motion was seconded by Commissioner Simpson and all favored. **HIGHLANDS ETJ:** The Staff Attorney reported that negotiations between representatives of the Town of Highlands and the County with respect to the number of County appointees to the Town's Boards for proportional representation of the ETJ residents had not resolved the issues between the two jurisdictions.

Chairman Bryson passed the gavel to Vice Chairman Leatherman for this discussion and requested he be allowed to abstain. The County Attorney advised there was no financial conflict of interest and he could not legally abstain. The Vice Chairman polled Board Members individually on allowing Chairman Bryson to abstain. The request was denied. The Staff Attorney further reported that his attention to this matter had not been directed by Chairman Bryson, contrary to the assertions of the Town Attorney in his letter to the Commissioners. The Staff Attorney stated that his attention to this issue had arisen out of the Town of Highlands' assertion that it had a population almost twice that of the Town of Franklin's. The Staff Attorney gave a complete update on the status of the proposed litigation against the Town.

Commissioner Davis expressed his concern that the Board of Commissioners, as the only elected representatives of both the Town and the ETJ residents, should take the necessary steps to insure that both groups of residents were treated fairly and afforded the statutory protections to which they were entitled. Thereupon Commissioner Davis moved that the County proceed to file the lawsuit that had been proposed by the Staff Attorney to obtain a declaration of the rights of the Board of Commissioners with respect to the appointment of the ETJ representatives to the appropriate Town Boards.

SCC/LIBRARY PROJECT EASEMENT – Upon motion by Commissioner Simpson and seconded by Commissioner Davis the Board unanimously voted to approve an easement to Duke Power Company on the SCC/Library Siler Road Project subject to the County Attorney approving the legal description. Also included in the motion was authorization for the County Manager to execute the easement.

NUISANCE ANIMAL ORDINANCE – Sheriff Robby Holland stated the Animal Control Study Committee has been meeting and, although a final resolution is still a while away, as a temporary solution a proposed Nuisance Animal Ordinance has been recommended until the Committee's task is complete. The Sheriff presented the terms of the proposal and requested consideration of the ordinance. Commissioner Shepherd made a motion to authorize the Attorney to prepare a proposed ordinance for presentation at the April meeting. The motion was seconded by Commissioner Leatherman and all favored.

ENVIRONMENTAL HEALTH: Health Director Ken Ring and Commissioner Davis, Liaison

to the Board of Health, briefly updated the Board on the continuing need for additional inspectors in environmental health after which Commissioner Davis made a motion to authorize the Health Board to hire an additional Environmental Health Specialist if they agree. The motion was seconded by Commissioner Simpson and all favored.

APPOINTMENTS: Community Funding Pool – Commissioner Davis made a motion to reappoint Bobbie Contino, Sandy Vinson and Gail Criminger to the Community Funding Pool. The motion was seconded by Commissioner Leatherman and all favored. Terms will expire March 1, 2009.

Franklin Recreation Commission – Upon motion by Commissioner Simpson and seconded by Commissioner Shepherd the Board unanimously voted to reappoint Dennis Conley to the Franklin Recreation Commission and to appoint Gloria Thun for fill the position vacated by Gene Young. Terms are for two years and will expire February 28, 2008.

Franklin Board of Adjustments (ETJ) – Commissioner Simpson made a motion to accept the recommendation to appoint Janet Greene to fill the unexpired term of Dr. Gus Wilde who resigned from the ETJ Board. The motion was seconded by Commissioner Davis and all favored. Term will expire January 28, 2008.

Library Board – Upon motion of Simpson and seconded by Commissioner Davis the Board unanimously voted to accept the recommendation to reappoint Carolyn Patton representing Highlands and Vince West representing Nantahala on the Library Board. Terms will expire February 28, 2009.

Western RC&D Council – Upon motion of Commissioner Leatherman and seconded by Commissioner Shepherd the Board unanimously voted to reappoint Josh Ward to the Western RC&D Council for a term to expire March 4, 2009.

TAX DEPARTMENT: Releases – Commissioner Shepherd made a motion to approve tax releases in the amount of \$22,338.33 as submitted. The motion was seconded by Commissioner Simpson and all favored.
(A computer print-out of releases is on file in the Tax Department and the County Manager's Office.)

Refunds – Commissioner Leatherman made a motion to approve a refund request from Richard Winnan in the amount of \$62.80 as recommended by the Attorney. Upon motion by Commissioner Davis and seconded by Commissioner Shepherd the Board unanimously voted to deny a request refund from Freda Corbin in the amount of \$236.13 based on the Attorney's opinion that the request did not meet the criteria for release under NCGS §105-381.

FINANCE: Audit contracts - (a) Upon motion of Commissioner Shepherd and seconded by Commissioner Leatherman the Board unanimously voted to approve an audit contract with Martin Starnes & Associates CPAs, P.A. for audit of county accounts for FY 2005/06 per attachment #4. (b) Upon motion of Simpson and seconded by Commissioner Leatherman the Board unanimously voted to approve an audit contract with Martin Starnes & Associates CPAs, P.A. for audit of Airport Authority accounts for FY 2005/06 per attachment #5.

Ambulance purchase- An opinion from the County Attorney was presented with respect to purchase of an ambulance stating the purchase requires compliance with formal bid requirements unless the purchase is to be from Northwestern Emergency Vehicles as an exception for standardization or compatibility with the other ambulances (G. S. § 143-129)(iii). The Attorney further explained if this is the reason for purchase from Northwestern it should be noted on the purchase requisition and the purchase should be approved by the Board. Commissioner Simpson made a motion to approve purchase of a 4x4 ambulance from Northwestern Emergency Vehicles at \$89,999 as advised by the Attorney. The motion was seconded by Commissioner Davis and all favored. Budget revisions – The following budget

revisions were unanimously approved: revision #75, upon motion by Commissioner Simpson and seconded by Commissioner Shepherd, appropriating \$28,64 donations received by the Sheriff's Department; revision #76, upon motion by Commissioner Davis and seconded by Commissioner Simpson appropriating \$3,402 increase in state funding for Family Planning; revision #77, upon motion by Commissioner Simpson and seconded by Commissioner Leatherman, reducing Healthy Carolinians State funding by \$5,000 and appropriating \$10,000 Healthy Carolinians Partnership Grant; revision #78, upon motion by Commissioner Leatherman and seconded by Commissioner Shepherd, appropriating \$3,500 additional Criminal Justice Partnership funding; revision #79, upon motion by Commissioner Simpson and seconded by Commissioner Davis, appropriating \$378 controlled substance tax distribution in the Sheriff's Department; revision #80, upon motion by Commissioner Leatherman and seconded by Commissioner Shepherd appropriating \$8,260 for vehicle repairs in the Sheriff's Department; and revision #81, upon motion by Commissioner Simpson and seconded by Commissioner Shepherd, appropriating \$7,994 Governor's Highway Safety Program Grant in the Sheriff's Department. (Note: revisions with corresponding numbers attached.)

ADJOURNMENT: Upon motion by Commissioner Simpson the meeting was adjourned.

Sam K. Greenwood, County Manager
Clerk to the Board

Daniel A. Bryson
Board Chairman

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