

Draft

**BOARD OF COMMISSIONERS**  
**REGULAR MEETING** August 4, 2014

**ALEXANDER COUNTY**  
**STATE OF NORTH CAROLINA**

**PRESENT:** Larry Yoder, Chairman  
Ryan Mayberry, Vice-Chairman (arrived at 7:12 PM)  
Andrew Ferguson  
James “Burkie” Jennings  
Judy M. Moose

**STAFF:** Rick French, County Manager  
Jamie Starnes, Clerk to the Board

The Alexander County Board of Commissioners held a regular meeting on Monday, August 4, 2014 at the CVCC / Alexander Center in Room 103, Taylorsville, North Carolina.

**CALL TO ORDER**

Chairman Yoder called the meeting to order at 6:00 PM.

**INVOCATION & PLEDGE OF ALLEGIANCE**

Chairman Yoder gave the invocation and Commissioner Ferguson led the Pledge of Allegiance to the Flag.

**\*\*\*SPECIAL RECOGNITION\*\*\***

Roy Calcagne, Kevin Mann, and Roy Beardon from Craftmaster Furniture were present to receive a check for \$480,000 from the NC Department of Commerce’s Rural Division Building Renovation Grant for renovation of the former Broyhill facility. The company received these funds based on the pledge to create 48 new jobs. Alexander County provided matching funds of \$24,000 and the Economic Development staff wrote and administered the grant.

Mr. Calcagne thanked the Board, Economic Development Director David Icenhour, NC Secretary of Commerce Sharon Decker, and Governor Pat McCrory, noting that \$2.5 million had been spent on this project thus far with 70 jobs created.

**COMMISSIONER’S REPORT**

Commissioner Ferguson recently toured all volunteer fire stations, substations, and the Rescue Squad and was impressed with the equipment as well as the professionalism of the volunteers. He thanked those individuals for protecting the citizens of the county.

Commissioner Moose applauded the 8 and under girls' softball team that recently won the Southeast Regional Tournament. She commended the volunteer coaches for their dedication.

Chairman Yoder reported that Vice-Chairman Mayberry would be late due to the loss of his uncle Wade Sigmon and he expressed the Board's condolences.

### **ADOPTION OF AGENDA**

Commissioner Jennings made a motion to adopt the agenda as presented. Commissioner Moose seconded the motion, which passed unanimously.

### **PUBLIC COMMENT**

There was no one present to speak during the Public Comment Period.

### **PUBLIC HEARING: REZONING CASE 14-3 – BMGC, LLC**

Seth Harris, County Planner, presented Rezoning Case 14-3 submitted by BMGC, LLC who requested rezoning of property located at 300 Golf Course Lane from R-20 (Residential) to C-R (Commercial Recreational) to allow for a golf course, restaurant, and lodging. The size of the property tract is 164.12 acres and the current land use is a golf course and restaurant. Zoning within 100 feet of the property is R-1 (Town zoning) to the north, south, and east, R-2 (Town) to the east, as well as R-20 (County) to the north, south, and west. Land uses within 100 feet of the property include residential to the north, south, and east along with vacant to the south and west.

According to available tax records and deeds, Brushy Mountain Recreation Association Inc. purchased the subject property in 1953. The property was transferred to BMGC, LLC in 2013. The owners have recently constructed a new clubhouse on the property.

He explained that, because the property was completely surrounded by a zoning district considerably different from the requested district, this was a "small scale rezoning" or spot zoning request which is "invalid or illegal unless there is a clear reasonable basis for treating the singled out property differently from adjacent land." In any case involving spot zoning, the following questions must be addressed:

1. Did the zoning activity in the case constitute spot zoning as our courts have defined that term?; and

2. If so, did the zoning authority make a clear showing of a reasonable basis for the zoning by determining the following 4 factors?:
  - a. The size of the tract.
  - b. The compatibility of the disputed zoning action with an existing comprehensive plan.
  - c. The benefits and detriments resulting from the zoning action for the petitioning property owner, neighbors, and surrounding community.
  - d. The relationship between the uses envisioned under the new zoning and the current uses of adjacent land.

Mr. Harris addressed staff comments in regard to these 4 factors to show a reasonable basis for zoning, which included:

**2a. The size of the tract:**

The size of the subject property is 164.12 acres. The sizes of surrounding properties are:

- North – 11.59 acres, lots ranging from .23 acre to 1.14 acres
- South – 50 acres, 11.08 acres, lots ranging from .74 to 6.15 acres
- East – 36 acres, 43.039 acres, and .0678 acre
- West – 26.57 acres, 43.81 acres, lots ranging from .3 acres to 5.54 acres

**2b. The compatibility of the disputed zoning action with an existing comprehensive plan:**

1. Section 154.150 of the Alexander County Zoning Ordinance states that the R-20 District is established to provide quiet, low-density living areas consisting of only single-family and related uses necessary for sound neighborhoods.
2. Section 154.140 states that the C-R District is to provide suitable locations for those commercial activities which provide leisure, entertainment, lodging, and dining type facilities.
3. The 2008 Comprehensive Plan shows the proposed future use of the area labeled as parks and open space.

**2c. The benefits and detriments resulting from the zoning action for the petitioning property owner, neighbors, and surrounding community:**

The Board must determine what impact the rezoning will have upon the adjacent property owners and the surrounding community. The benefits of the rezoning should outweigh any potential inconvenience or harm to the community.

**2d. The relationship between the uses envisioned under the new zoning and the current uses of adjacent land:**

The existing golf course has been in existence for approximately 50 years. A restaurant has also existed on the property since prior to the adoption of countywide zoning. The proposed lodge would promote the property and neighborhood as a leisure destination.

Letters were sent by first class mail to the property owners within 100 feet of the parcel boundary, a sign was posted on the property, and an advertisement was placed in *The Taylorsville Times*. Staff received one phone call from an adjoining property owner, who also spoke at the public hearing, with concerns regarding runoff from construction.

He informed the Board that Planning & Development staff recommended approval of the request due to the following:

1. The current use existed prior to the adoption of countywide zoning.
2. The request allows for the continuance of the existing use and for the addition of uses that would enhance the neighborhood.

The Planning & Zoning Commission held a public hearing on July 10, 2014 to consider the request, where the Commission unanimously voted to recommended approval based on the following supporting facts:

1. Consistency with the 2008 Comprehensive Plan.
2. Benefits for the surrounding neighborhood outweigh any perceived detriments.
3. The existence of the current uses existed prior to countywide zoning and the proposed use would enhance and promote the existing uses.

Mr. Harris advised that based on the information provided, the Board must determine whether the rezoning request meets the guidelines set forth above and is reasonable in regards to the public interest, considering all uses within the requested zoning district, not merely the use of which the applicant is applying.

Chairman Yoder made a motion to call the public hearing to order and requested any public comment. Commissioner Jennings seconded the motion, which passed unanimously. There being none, Chairman Yoder made a motion to close the public hearing. Commissioner Jennings seconded the motion, which passed unanimously.

Commissioner Jennings made a motion to approve Rezoning Case 14-3. Commissioner Moose seconded the motion.

Chairman Yoder requested an amendment to the motion to include supporting from both staff and the Planning & Zoning Commission to include the following, making a motion as such:

1. The current use existed prior to the adoption of countywide zoning.
2. The request allows for the continuance of the existing use and for the addition of uses that would enhance the neighborhood.
3. Consistency with the 2008 Comprehensive Plan.

4. Benefits for the surrounding neighborhood outweigh any perceived detriments.
5. The existence of the current uses existed prior to countywide zoning and the proposed use would enhance and promote the existing uses.

Commissioner Jennings accepted the amendment and seconded the motion, which passed unanimously.

### **PUBLIC HEARING: CONDITIONAL USE PERMIT 14-1 – BMGC, LLC**

Seth Harris, County Planner, presented Conditional Use Permit 14-1 submitted by BMGC, LLC who requested conditional use approval for a lodging facility at property located at 300 Golf Course Lane. The size of the property is 164.12, now zoned C-R, and the current land use is a golf course and restaurant. Mr. Harris reviewed zoning and land uses within 100 feet of the subject property and property history as outlined above in Rezoning Case 14-3.

The C-R (Commercial Recreational) District allows for lodging establishments with conditional approval from the Board. The proposed facility will meet setback requirements as outlined by the Zoning Ordinance, which also requires a visual buffer between the requested use and adjacent residential property consisting of a landscaped earthen berm, planted or existing vegetation, an opaque fence, a wall, or any combination of the above.

Letters were sent by first class mail to adjoining property owners, a sign was posted on the property, and a legal advertisement was placed in *The Taylorsville Times* to announce the public hearing. Staff received one phone call from the same adjoining property owner as the rezoning case with concerns regarding runoff from construction.

Mr. Harris reported that staff recommended approval of the conditional use permit with the following conditions:

1. A buffer shall be constructed so as to reduce the visual impact of the proposed use on adjacent residential properties. Preservation of existing vegetation shall be maximized where such vegetation contributes to the required screening.
2. The light source of outdoor lighting fixtures must not be directly visible from adjoining properties and shall be designed to provide minimum impact on adjacent residential properties.
3. Architectural design of the lodging facility shall match the existing clubhouse.
4. Interior landscaping shall be designed and maintained so as to enhance the visual appeal of the property.

Chairman Yoder made a motion to call the public hearing to order and requested any public comment. Commissioner Ferguson seconded the motion, which passed unanimously.

#### Public Comment

Owner Baxter Hayes approached to answer questions from the Board regarding location of the lodging facility, future units, etc. He advised that staff would begin paperwork tomorrow for construction if approved tonight with planned completion within 60 days.

There being no further comments made, Commissioner Ferguson made a motion to close the public hearing. Commissioner Jennings seconded the motion, which passed unanimously.

Chairman Yoder made a motion to approve Conditional Use Permit 14-1 to include conditions specified by staff as follows:

1. A buffer shall be constructed so as to reduce the visual impact of the proposed use on adjacent residential properties. Preservation of existing vegetation shall be maximized where such vegetation contributes to the required screening.
2. The light source of outdoor lighting fixtures must not be directly visible from adjoining properties and shall be designed to provide minimum impact on adjacent residential properties.
3. Architectural design of the lodging facility shall match the existing clubhouse.
4. Interior landscaping shall be designed and maintained so as to enhance the visual appeal of the property.

Commissioner Ferguson seconded the motion, which passed unanimously.

## **CVCC COMPENSATORY EDUCATION PROGRAM CONCERNS**

Amy Hopke-Oxentine requested financial assistance for the Compensatory Education Program at the CVCC / Alexander Center which began in May 2012 with 4 students, which has grown to 15 as of today. The program provides mental growth in an educational setting, allowing young adults with developmental disabilities to give back to the community through activities such as volunteering at the Christian Crisis Center, maintaining a community garden, distributing supplies for the Litter Sweep, assisting the Red Cross at blood drives, and beautifying the CVCC / Alexander Center campus by planting flowers and trash pickup.

She explained that funding for the Compensatory Education Program been cut, resulting in the loss of an hour of program time each day as well as reduced hours for the teacher assistant which creates a hardship for working parents. She questioned why the \$37,825 appropriation to Alexander County from the Smoky Mountain Center was only given to RHA for behavioral problems, noting that the Compensatory Education Program only needed \$5,000.

Rick French, County Manager, responded that Smoky determined how their funding was appropriated, not the County.

Chairman Yoder advised that he would be attending the NCACC Annual Conference next week where mental health funding would be discussed. He asked Ms. Hopke-Oxentine to allow him the opportunity to educate himself on this issue and also speak with Mr. French and the other

commissioners. He assured her that he would respond within 30 days. Ms. Hopke-Oxentine agreed.

## **REVALUATION PROCESS / SCHEDULE SPECIAL CALLED MEETING**

Guy Kerley, Tax Administrator, reported that N.C.G.S. 105-286 required reappraisal of all real property at least every 8 years, noting that Alexander County was scheduled for revaluation in 2015. He explained the process for revaluation and advised that, due to Alexander County having one of the smallest Tax Office staffs in the state, the County contracted with Tyler Technologies to perform the task.

Doug Fox, Tax Assessor, discussed information considered when appraising property such as sales history of similar property, condition, replacement cost, potential income generated, and highest/best use of property. He also provided a timeline of events as follows:

July 2013 – Tyler Technologies set up office and began collecting data and reviewing neighborhoods.

November/December 2013 – Tyler began visiting parcels.

April 2014 – Parcel visits ongoing and data being entered into system.

July 2014 – Schedule of Values finalized.

August/September 2014 – Hold public hearing for and approval of Schedule of Values.

December 2014/January 2015 – Property owners mailed new tax values.

February 2015 – Hold public hearings for appeals.

August 2015 – Property owners mailed 2015 tax bills with new values.

Ron McCarthy with Tyler Technologies presented the proposed Schedule of Values, standards for reappraising real property. He requested an additional meeting in August to hold a public hearing as required by statute prior to approval of the schedule planned for September, noting that copies were available for public inspection at both the Tax and Administration Offices.

Chairman Yoder made a motion to hold an additional meeting on Monday, August 18, 2014 at 6:00 PM at the County Administration Building conference room. Commissioner Ferguson seconded the motion, which passed unanimously.

## **PERSONNEL POLICY AMENDMENT**

Rick French, County Manager, requested an amendment to the Personnel Policy making direct deposit mandatory for all employees effective November 1, 2014. This is due to a change in the distribution of payroll and payroll advices.

Commissioner Jennings made a motion to approve the amendment to the Personnel Policy. Commissioner Ferguson seconded the motion, which passed unanimously.

## **RESOLUTION AUTHORIZING EXECUTION OF A LETTER OF INTENT FOR A SOLAR ENERGY FARM**

Rick French, County Manager, advised that approval of this resolution would give him authority to draft a letter of intent to Petra Engineering, PLLC who is interested in developing a solar energy farm on property adjacent to the closed landfill at 2500 Paynes Dairy Road. Petra has proposed leasing the property for 20 years, paying the County no less than \$150,000 and no more than \$300,000. He noted that the letter would be reviewed by the County Attorney prior to mailing.

Commissioner Moose made a motion to approve the resolution authorizing the letter of intent to Petra Engineering. Commissioner Ferguson seconded the motion, which passed unanimously.

## **SALES TAX UPDATE**

Rick French, County Manager, reported that \$3,327,321 had been collected in sales tax revenue for 11 months of the 2013-2014 fiscal year which is \$7,000 less than this time last year. A total of \$3,611,000 was budgeted. The hold harmless total is at \$113,153.

## **BOARD APPOINTMENTS & REAPPOINTMENTS**

Rick French, County Manager, presented the following appointments and reappointments:

Animal Control Advisory Board – Appoint Josh Mitchell and Jennifer Sigmon as ex-officio members.

Senior Center Advisory Committee – Reappoint Judy Rao for 3 years.

Commissioner Moose made a motion to approve the appointments and reappointments as presented. Commissioner Jennings seconded the motion, which passed unanimously.

## **BUDGET ORDINANCE AMENDMENTS #1 - #7**

Rick French, County Manager, discussed the purpose of Budget Amendments #1 - #7, as follows:



Budget Amendment #1 – To increase the Register of Deeds budget for an employee’s pay increase due to completion of a 6-month training course. To increase the Sheriff’s Office budget for accrued leave payouts due to employees leaving County employment. To increase the Detention budget for accrued leave payout due to an employee transferring from full-time to part-time status.

Budget Amendment #2 – To adjust the JCPC budget to match the final approved budget by the state. To increase the Health department budget for additional grant funds available through FY 2015. To increase the DSS budget to pay the FY 2015 application hosting and maintenance fee for NCDSS Day Sheets that uploads day sheets directly to the state. To increase the Special Appropriations budget to pay the FY 2015 operating member match to WPRTA. To decrease the Fire/Emergency Services budget to comply with the accounting treatment for 3 years of the Code Red service to be paid in FY 2015.

Budget Amendment #3 – To increase the Information Technology budget to complete the approved software projects begun in FY 2014 for Inspections, Finance, and Human Resources. To increase the Sheriff’s Office budget to pay for ammunition ordered with a FY 2014 purchase order. To increase the Detention Center budget to pay for equipment ordered with a FY 2014 purchase order. To increase the Fire/Emergency Services budget for 100% Homeland Security grant carried over from FY 2014 to purchase a truck to pull the MCI trailer and CAMET to emergency locations.

Budget Amendment #4 – To transfer funds between departments for allocation of annual insurance premiums for property and liability and workers’ compensation.

Budget Amendment #5 – To transfer funds between departments for allocation of annual insurance premiums for property and liability and workers’ compensation.

Budget Amendment #6 – To transfer funds for allocation of annual insurance premiums for property and liability and workers’ compensation.

Budget Amendment #7 – To transfer funds for allocation of annual insurance premiums for property and liability and workers’ compensation.

Commissioner Jennings questioned the purchases in Budget Amendment #3. Mr. French replied that this amendment simply moved money from last year’s budget into this year’s for items already approved by the Board.

Commissioner Ferguson expressed concerns with Budget Amendment #1, specifically related to the unbudgeted payout of vacation/holiday/comp time. Mr. French explained the difficulty in accurately budgeting for such items since it was impossible to predict turnover.

Vice-Chairman Mayberry made a motion to approve Budget Amendments #1 - #7. Commissioner Moose seconded the motion, which passed unanimously.

## **OTHER BUSINESS**

Rick French, County Manager, reviewed a list of surplus property sold between January 1<sup>st</sup> and June 30, 2014 through Govdeals, the Smoky Mountain Center 4<sup>th</sup> quarter report, and the monthly budget report.

Commissioner Ferguson made a motion to approve the County Manager's Report. Commissioner Jennings seconded the motion, which passed unanimously.

## **CONSENT AGENDA**

- A. Minutes from the June 23, 2014 Regular Commissioners' Meeting.
- B. Designation of Voting Delegate for the NCACC Annual Conference.
- C. Vehicles to be Surplused: 1999 Dodge 2500 Truck VIN #1B7KF2361XJ502863, 2002 Mercedes Benz VIN #WBBLJ70G22F198112, 1997 Ford Ranger VIN #1FTCR1087VPA80669, 1994 Bayliner Boat VIN #USCA55FJA494, and 1994 ESCO Boat Trailer VIN #405120DE7RM000055.
- D. Tax Release Requests (\$3,955.48) and Tax Refunds (\$2,473.70) for May 24-July 25, 2014.

Commissioner Moose made a motion to approve the Consent Agenda. Commissioner Jennings seconded the motion, which passed unanimously.

## **CLOSED SESSION – N.C.G.S. 143-318.11(a)(1, 2, 3, 4, 5, & 6) TO PREVENT THE DISCLOSURE OF CONFIDENTIAL INFORMATION, DEGREES/PRIZES/AWARDS, ATTORNEY/CLIENT PRIVILEGE, ECONOMIC DEVELOPMENT, CONTRACTUAL, & PERSONNEL**

Chairman Yoder made a motion to enter into Closed Session at 7:43 PM to prevent the disclosure of confidential information, to discuss degrees/prizes/awards, economic development, contractual matters, and personnel issues, and for attorney/client privilege pursuant to N.C.G.S. 143-318.11(a)(1, 2, 3, 4, 5, & 6). Commissioner Ferguson seconded the motion, which passed unanimously.

## **ADJOURNMENT**

There being no further business, Commissioner Jennings made a motion to adjourn at 8:21 PM. Commissioner Moose seconded the motion, which passed unanimously.

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Larry Yoder, Chairman

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Jamie M. Starnes, Clerk to the Board