

**MINUTES OF A
REGULAR MEETING
OF THE JACKSON COUNTY
BOARD OF COMMISSIONERS
HELD ON
APRIL 16, 2018**

The Jackson County Board of Commissioners met in a Regular Session on April 16, 2018, 6:00 p.m., Cashiers-Glenville Recreation Center Gymnasium, 355 Frank Allen Road, Cashiers, North Carolina.

Present: Brian McMahan, Chairman
Charles Elders, Vice Chair
Boyce Deitz, Commissioner
Mickey Luker, Commissioner
Ron Mau, Commissioner

Don Adams, County Manager
Heather C. Baker, County Attorney
Angela M. Winchester, Clerk to Board

Chairman McMahan called the meeting to order.

(1) **PROCLAMATION FOR ABSALOM HOOPER DAY**: Commissioner Luker read a Proclamation to proclaim April 21, 2018 as Absalom Hooper Day in the county. Commissioner Luker moved to approve the Proclamation. Commissioner Mau seconded the Motion. Motion carried.

(2) **PROCLAMATION FOR CLEANING UP THE MOUNTAIN DAY**: Commissioner Elders read a Proclamation to proclaim April 21, 2018 and every third Saturday in April annually, as Cleaning Up The Mountains Day in the county. Commissioner Elders moved to approve the Proclamation. Commissioner Mau seconded the Motion. Motion carried.

(3) **PROCLAMATION FOR NATIONAL TRAVEL AND TOURISM WEEK**: Commissioner Mau read a Proclamation to proclaim May 6th-12th as National Tourism Week in the county and presented the proclamation to Nick Breedlove, Executive Director, Jackson County Tourism Development Authority. Commissioner Mau moved to approve the Proclamation. Commissioner Elders seconded the Motion. Motion carried.

(4) **AGENDA**: Commissioner Mau moved to amend the agenda by removing the item: Brunch Bill Ordinance.

Commissioner Mau stated that he had fourteen pages of notes that he wanted more time to read and go through to make a more informed decision. Also, he had been approached about potentially placing this issue on the ballot in November and he wanted to look further into possibly doing that. He wished to table this item until the second meeting in May.

Commissioner Luker seconded the Motion.

Discussion:

Commissioner Deitz stated they had discussed this issue for a long time and had several meetings and public hearings - he thought they needed to make a decision. He was not in favor of removing the item from the agenda.

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

(5) **MINUTES**: Commissioner Elders moved to approve the minutes of a Regular Meeting of April 02, 2018. Commissioner Luker seconded the Motion. Motion carried.

(6) **CHAIRMAN'S REPORT**: Chairman McMahan recognized former County Commissioner Mark Jones, who was in attendance. He also recognized another elected official in attendance, Sheriff Chip Hall.

He attended a preview of a film that would be shown in Sylva on April 25th at Mad Batter Food and Film at 6:00 p.m. The title of the film was "Resilience – the biology of stress and the science of hope". It was a very powerful film and he encouraged the Commissioners to attend. It was a very moving film about toxic stress and what kids had to go through in life and the impact it had on their performance and outlook on life.

(7) **COMMISSIONER REPORTS**:

(a) Commissioner Deitz stated that earlier, two proclamations were read, one for Cleaning Up The Mountains Day and one for National Travel and Tourism Week. The beauty of the mountains was the reason tourist came to Jackson County. He encouraged everyone to take part in the Cleaning Up The Mountains event on Saturday.

(b) Commissioner Elders reported on the progress of the new Mountain Projects building. It was likely that the move-in date would be May 10th. As the acting Mountain Projects Chairman, he expressed Haywood County's appreciation to Jackson County for all that they had done to help.

(c) Commissioner Mau stated that the Board would be holding a Joint Meeting / Opioid Awareness Leadership Forum on April 23rd at 6:00 p.m. at the Department on Aging Heritage Room and encouraged everyone to attend.

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

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

(a) Mary Palmer Dargan stated she owned a home and a business in Cashiers for over 22 years and times and the village had changed. There was a loss of innocence and an increase in crime. She was speaking specifically about events that had occurred in the Lancewood community and around Cashiers Lake. In the wintertime, there had been exponential home burglaries and in the summer, there were vagrants that camped in vacant lots, homes and in the parks. There were also reports of meth use in vagrant campsites. They did not have enough security in the village and they needed better bail procedures.

(b) Lisa Mays stated she had been in Cashiers since 1965 and had never locked doors until recently. There was a perfect storm with the serious and growing meth and heroin problem with the added opioids as well. One officer was not enough to make arrests, as people were dangerous. Cashiers paid 60% of the tax base in the county and were entitled to have more than one officer. They needed one investigator and two deputies.

(c) Barbara Cole stated she a practicing attorney and a senior judge. She was a victim of a horrific crime involving her home. David Griffith and his girlfriend operated a drug ring for over six weeks out of her home. Her house was destroyed. She knew politics and she knew the Board controlled the Sheriff's budget. She wanted to know why Cashiers had become a meth haven. They needed the people that were doing this to have accountability for what they had done. She requested that the Commissioners do everything in their power to address this before someone was killed.

(d) Lindsay Heller stated she owned Cashiers Massage Therapy and lived in the Heady Mountain community. All of the houses in that community had been robbed at least once. The people doing it had been let out over and over again – they were let out on bail easily. She thought there was a huge turnover in the police force and they were overworked and underpaid. Also, she did not believe local authorities were cooperating with the SBI. She had more questions than complaints, but was not sure where this needed to start, but it needed to be somewhere soon.

(e) Susan Kettles stated she was also from the Heady Mountain area and had been a full time resident since 2006. They were unsuccessful at breaking into her house due to ADT and deadbolts. A lot of the houses had been broken into and no arrests were made. She did not know the solution, but she felt unsafe and it appeared these people doing illegal things were not getting the consequences that were justified.

(f) Mark Woolsey stated he was a retired insurance guy and it was better to have five “acts of God” claims than one theft claim. He lived in the Lancewood neighborhood, which had become very famous for the theft, which could potentially damage property values in the area. It was a big economic concern for him and the security of the neighborhood.

(g) Kitty Eaton stated that bail was a multi-billion dollar industry for profit companies and the justice system. They had a four person crime wave in Lancewood, part of which was in jail and part of which was let out on bail, time after time. She asked if they could have coordination between the Sheriff’s Office and the State Police. Also, could the Sheriff’s Department be trained to do fingerprinting and learn how to deal with crime? Was there a way to keep the offenders in jail so that they did not keep committing the same offenses? Could they become proactive rather than reactive? This was a peaceful place until the crime wave began.

(h) Trish Chambers stated she was speaking on behalf of a lady from the Pine Creek area. They were having so many problems with drugs in that area and people were afraid for their lives and their children’s lives. Why could they not get help from the DEA and catch these people in the act. They needed to have stakeouts and a lot of them. It was time for eyes to be opened, people needed to know the truth.

(i) Carla Tucker stated that she worked at Cashiers Insurance Agency and had been a licensed agent for 35 years. She had seen tons of theft and burglary and seen the devastation for homeowners from lost items and damage. There was a severe problem in Cashiers and a lack of amount of patrolling. The county could tighten its belt to support the community and get this under control. They needed to work together as a team in the county and in the neighborhoods to help each other.

Commissioner Deitz stated that they were listening. All of the Commissioners lived in communities and they also had problems in their communities. He apologized for what the folks were going through. If there was an easy solution to the problem they would have already solved it. They were not going to ignore their thoughts and he was hopeful that they could do something to alleviate this, but he did not know if they could eliminate it. They needed to all work together on this, it was not political - it was a bad problem.

(10) COUNTY HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) POLICY REVISION: Ms. Baker stated this was an item that had been presented at the last work session. The Health Board and the Department of Social Services Board had approved the revision.

***Motion:** Commissioner Deitz moved to approve the HIPAA Policy Revision, as presented. Commissioner Elders seconded the Motion. Motion carried by unanimous vote.*

(11) MOUNTAIN PROJECTS CAPITAL FUNDING MATCH: Mr. Adams stated that Haywood County Board of Commissioners approved a budget amendment for \$150,000 to go towards the construction of the Mountain Projects’ facility. As discussed earlier in a work session, this would be a match to Jackson County. At this time, it was requested that the Board allocate \$150,000 to go towards the project. Haywood County did take the funds from this fiscal year’s budget and he recommended this Board do the same.

Chairman McMahan stated that Mountain Projects was a very well deserving agency that did a lot of good in Western North Carolina and beyond.

Motion: *Commissioner Elders moved to grant the requested capital funding match to Mountain Projects in the amount of \$150,000, from contingency. Commissioner Mau seconded the Motion. Motion carried by unanimous vote.*

(12) RESOLUTION SUPPORTING A STATEWIDE REFERENDUM ON BOND ISSUE FOR SCHOOL FACILITY NEEDS (R18-06): Mr. Adams presented Resolution R18-06, for consideration, which urged the North Carolina General Assembly to call for a statewide referendum on the November 2018 ballot. It was estimated that Jackson County could receive \$2,974,342 toward the shortfall of school capital needs.

Motion: *Commissioner Luker moved to adopt Resolution R18-06 supporting a statewide referendum on a bond issue for school facility needs. Commissioner Mau seconded the Motion. Motion carried by unanimous vote.*

(13) BRUNCH BILL (SB155) ORDINANCE (O2018-01): Chairman McMahan stated this bill was initially ratified by the State Legislature as Senate Bill 155, commonly referred to as the Brunch Bill, which gave local municipal and county jurisdictions the opportunity to pass local ordinances to expand the sale of alcoholic beverages two hours on Sunday starting at 10:00 a.m., as opposed to the current start time of 12 noon. This required the county to enact a local ordinance, which was before them for consideration. The official request came last summer from the Cashiers Chamber of Commerce representing many businesses in the Cashiers area, officially asking the Board of Commissioners to take this item up and move forward with its approval.

Motion: *Commissioner Deitz moved to deny the request, as presented. Commissioner Elders seconded the Motion.*

Discussion:

Commissioner Mau stated he did not understand the motion. Were they voting on the Ordinance?

Commissioner Deitz withdrew the motion. Commissioner Elders agreed to withdraw the second to the motion.

Motion: *Chairman McMahan moved to put the Ordinance on the floor for discussion and consideration. Commissioner Elders seconded the Motion.*

Discussion:

Commissioner Mau stated he wanted to address some of the comments that came up. He read the oath of office that he and each of the Commissioner took when they were sworn into office.

He stated that in October, when the issue came up, he was quoted in the Sylva Herald as saying this was a constitutional issue. He referenced a 1961 court case that stated there was a secular purpose for supporting Blue Laws, such as to make sure the postman had the day off once a week. One of the Justices had stated that if it had been for a religious reason, it probably would not have been upheld. There had been other cases involving the Establishment Clause and he suggested anyone interested to read the article in the Vanderbilt Law Review entitled "Red, White and Almost Blue".

Fast forward to January, 2018, there was a piece written by the UNC School of Law regarding the Brunch Bill. It mentioned that the State of North Carolina did the right thing by passing the Brunch Bill because it was a constitutional issue related to the Establishment Clause. It also stated that they probably did not go far enough and they should have just done it statewide. The issue being that every time a local politician stood up and said they were going to do this for the church or the churches said you have to do this because of religion, it created an Establishment Clause issue. He talked with the County Attorney and other attorneys about the same issue and they all agreed it was definitely an Establishment Clause issue.

There was information presented to the Board at the last public hearing regarding a study where Virginia extended package liquor sales on Sunday morning, it was not the Brunch Bill. The Brunch Bill did not affect package liquor sales and the ABC Store would not be open on Sunday mornings. Also, the results of the study did talk about the benefits not outweighing the costs, but the neighborhoods in the study were primarily minority and densely populated. It would be difficult to generalize that to Jackson County as that was a completely different demographic and a completely different situation. It would be difficult to say that the same result would be happen in Jackson County.

It was unfortunate that people did get behind the wheel after drinking and people did die from that. There was a site maintained by the University of North Carolina regarding auto accident deaths. He looked at NC Division 14 data that went back to 2007, which was Jackson County's district. The percentage of auto accidents that had a fatality that involved alcohol showed that Jackson County had a higher percentage than the rest of the district until 2012. What happened in 2012? The alcohol sales referendum passed in the county and since that time the percentage of accidents involving fatality where alcohol was involved dropped to the same level as the rest of the 14th district or about the same.

Lastly, there were groups out there that this was not about drinking for two hours, it was about white, Christian, older guys telling them that the way they practice their religion was wrong because their Sabbath was a different day, that went back to the constitutional issue. This was a big issue for some people, not because of the drinking, it was about what message they were sending to them. The rights of the majority meant nothing without the rights of the minority. He was for limited government, free markets and personal liberty.

Commissioner Luker stated he did not think there was a person sitting on the Board that got more criticism than he did at the last public hearing. He had to sit there and take that he was not a Christian. He had to have thick skin. He was a forgiving person, but it hurt to the core. He had something that no one could take away from him, he knew what he had. Did he do the right things and make the right choices every day – no.

As a Commissioner he was disappointed that the Board was not going to put this off to allow more time to look at this and see what others had to say. As a Commissioner, when he was voted by the majority of the people of the county, he had to take a fiduciary responsibility not to represent any one group, any one individual or his own special interests – it was hard. He had to look at it not based on his convictions, he had to look at it as a county as a whole and in the best interest of the county and government at the time. He wished he did not have to make this decision because how could they make a decision based on what they had heard, it was split down the middle.

The people should have to make this choice. This was a perfect example of the people not being able to vote again on a referendum. He really did not have an opinion one way or the other. He had businesses, individuals and Chambers of Commerce pressuring him on how he would vote. He did not know until he heard what the people had to say how he would vote. He had business people tell him he would not get reelected if he did not vote for this. He had his Christian family tell him that he would not get reelected if he did. So either way, it appeared that he was doomed. He had to make a choice of what he thought he had to do based on what he felt was right for the county.

Commissioner Elders stated he appreciated everyone that spoke, everyone that visited him and every phone call he received regarding this matter. They had so many outstanding denominations and individual churches in the county and it was his firm belief that they should show enough respect for every church in the county to grant them two hours on Sunday morning without the sale of alcohol anywhere around them. He could not judge anyone, it was God and his Son, Jesus Christ. His vote would be a “no”.

Commissioner Deitz stated that he appreciated all of the comments from his fellow Commissioners. Commissioner Mau was a very learned fellow and talked about the constitution and upholding it – he took that oath too. He believed strongly in the constitution and personal rights. This was not the greatest job he ever had. The greatest job he ever had was raising two daughters, now three grandkids and thousands of kids he taught. When they came to him now and asked him for advice, he felt honored by that. But this was very important too. All of his years of teaching, coaching, being a dad and a granddad, one thing that he had to do was look at his self in the mirror. There were certain decisions in life that a person had to look at their self every day and this was one of those decisions. He may be 100% wrong, but he had to look at his self.

Chairman McMahan stated that he thought this was really not a constitutional issue because they all took the same oath from the constitution and the State Legislature gave them the option, whether they wanted the option or not, it was forced upon them. The Legislature said that if they wanted it locally, it was up to the county and municipal jurisdictions to vote for it. So that was what they were going to do, the decision was in the Commissioners’ hands as this was a representative democracy. The citizens elected them to make the decisions and there was not an option to put this on a ballot as the legislation did not say anything about putting the issue on a ballot. They said that the county or municipal government would decide, which was the Board of Commissioners.

It was a hard decision for some and an easy decision for others, but ultimately they had to make that decision. It was not about the constitution or about whether people should be in church on Sunday or not or if they should drink alcohol or not drink alcohol. They had been asked to take action on this item that came straight down from the state government that said - did they want to expand alcohol consumption by two hours or not.

Motion failed by a vote of 2-3 with Chairman McMahan, Commissioner Elders and Commissioner Deitz voting “nay”.

(14) BUSINESS AND INDUSTRY ADVISORY COMMITTEE: Chairman McMahan recommended John Bubacz to be reappointed. Commissioner Deitz recommended Larry Hinton to be reappointed.

Motion: *Commissioner Deitz moved to reappoint John Bubacz and Larry Hinton to additional three year terms on the Business and Industry Advisory Committee, terms expiring April 15, 2021. Commissioner Elders seconded the Motion. Motion carried by unanimous vote.*

(15) CASHIERS PLANNING COUNCIL: *Carry over.*

(16) COUNCIL ON AGING:

Motion: *Commissioner Luker moved to appoint Pam Middleton to the Council on Aging for the term of her employment. Commissioner Deitz seconded the Motion. Motion carried by unanimous vote.*

(17) PLANNING BOARD: *Carry over.*

(18) RECREATION AND PARKS ADVISORY BOARD:

Motion: *Commissioner Deitz moved to appoint Jana Fulton to the Recreation and Parks Advisory Board for a three year term to expire December 31, 2021. Commissioner Elders seconded the Motion. Motion carried by unanimous vote.*

(19) TOURISM DEVELOPMENT AUTHORITY:

Motion: *Commissioner Mau moved to appoint Andrew Harlfinger to an unexpired term on the Tourism Development Authority, term to expire December 2, 2020. Commissioner Luker seconded the Motion. Motion carried by unanimous vote.*

(20) PRESS CONFERENCE: Don Richeson of the Crossroads Chronicle inquired when a Brunch Bill motion could come back up for a vote.

Ms. Baker stated there was no time limit, it could come up at any time.

Mr. Richeson stated that the Cashiers community was unincorporated. What would they have to do to become incorporated?

Chairman McMahan stated they had been through that process several times. There was a defined legislative process they would have to go through.

There being no further business, Commissioner Mau moved to adjourn the meeting. Commissioner Deitz seconded the Motion. Motion carried and the meeting adjourned at 8:35 p.m.

Attest:

Approved:

Angela M. Winchester, Clerk to Board

Brian Thomas McMahan, Chairman