

**MINUTES OF A
SPECIAL MEETING
OF THE JACKSON COUNTY
BOARD OF COMMISSIONERS
HELD ON
MAY 31, 2018**

The Jackson County Board of Commissioners met in a Special Meeting on May 31, 2018, 11:05 a.m., Justice and Administration Building, Room A201, 401 Grindstaff Cove Road, Sylva, 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) **AGENDA**: Chairman McMahan requested to add one item: Informal Comments by the Public. Commissioner Luker moved to approve the amended Agenda. Commissioner Mau seconded the Motion. Motion carried.

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

(a) Jay Coward stated he was speaking on behalf of the Pinnacle Park Foundation, which had been in existence since 1992 and had been instrumental in the creation of Pinnacle Park. He felt the proposed addition would benefit the county. He wanted to address some of the issues he discovered in talking with the Commissioners individually about the park.

First, the application to the Clean Water Trust Fund could have commitments by the town and county that were conditional, such as being available for recreation, hunting, etc. Also, they had not gotten appraisals yet and the owner's opinion of value may differ from the appraisals procured by the Clean Water Trust Fund. When there was a great variance between the landowner and the body seeking to purchase the property, negotiations would ensue if and when the grant was awarded. Another question was who would be the legal authority to enforce regulations imposed on the property. Mainspring would be the body that would hold the conservation easement and enforce the regulations and conditions.

Lastly, as far as the tax value, people came to Jackson County and spent money because of wild places. A wild place was important not only to the county, but it was important to the world as the forest was the lungs of the earth and whenever they had the chance to conserve a piece of property, they should do it.

(b) Sue Nations urged the Commissioners to provide the conservation trust with a letter of support to commit \$250,000 with conditions they thought were appropriate. The Town of Sylva had already approved the letter. Being a partner with the Town of Sylva in support of this acquisition was critical to acquire the grant and to solicit private donations in order to purchase the land. If the land was acquired, a management operation was already in place with the Pinnacle Park. The Pinnacle Park was very well-used and a valuable asset in the county. The trail was widely known and drew many people to the county, making it an economic asset. Adding the Plott Balsams to the park would increase the benefit. The conservation would be a gift to the people of the county, to future generations and would be the only way they could keep the Plott Balsams.

(c) Betsy Swift requested the Commissioners vote yes on the Blackrock expansion of Pinnacle Park. Expansion of this area would encourage people to continue to spend their vacation and recreation dollars in the county. Also, she thought it was a worthwhile consideration to preserve a beautiful vista for the people that live in the county. The property would be taken out of the tax base, but she thought there were other ways to improve the tax base such as making policies that supported small businesses.

(d) George Rector encouraged the Commissioners to support the purchase of the Blackrock tract with the expansion of Pinnacle Park. Future residents in the county needed and deserved the same opportunities, services and access to public lands for recreation and to appreciate the irreplaceable beauty of the county. Pinnacle Park was an important part of the local economy. The Sylva Commissioners understood the significance of the moment and had pledged \$250,000 to support the project. The success of acquiring the Blackrock tract was much more likely to succeed if the Board of Commissioners also offered support.

(e) Pamela Krauss stated she was a resident of the county and took full advantage of the recreational opportunities offered by the rec center and the outdoors. In her working years, she practiced environmental law and had the opportunity to review and evaluate massive portfolios of property acquisitions for investment groups and governmental entities. Some properties were clearly risks and rejected, some were good investments and there were many that landed in the gray area. For a lawyer, those were properties that took further investigation and some kind of contingencies going forward. The goal of those transactions was to keep the door open so that a client would not miss out. Look at the options for this, use the talent of staff and keep the opportunity and contingencies open to increase the recreational opportunities and water resources.

(f) Barbara Hamilton stated she was on the Sylva Town Board, but she was there as a citizen of the county. She and her family were proud to be residents of Jackson County, but she saw the land slipping away and gated communities going up everywhere. She saw this as an opportunity that they could not resist. The town had made their pledge and she hoped they could all keep an open mind and work together. She thought this was a one-time opportunity to preserve the land for so many people and future generations.

(g) Burt Kornegay encouraged the Board to approve the monies for the application to purchase the property to be added to the Pinnacle Park. It had been said that the acquisition of the land would take the land out of the tax base, which was true. But that did not necessarily mean that the land that was part of Pinnacle Park was a financial zero or negative for the county. For example, Panthertown Valley contributed to the finances and economy as people would visit and spend their money in the county.

(h) Eric Myers stated he was a resident of the county and was in favor of well thought out conservation programs where there was a coherent, ecological plan, an acquisition plan, a willing and funded management entity, a recreation access component and local government support. He thought the project should meet those goals. He thought this was a good coherent project and hoped the county would be willing to support it conceptually and financially. Based on timing, he would like to see the county support the project to allow the funding effort to move forward.

(i) Dan Perlmutter stated he had been a resident of the county for over 30 years. The Plott Balsams were one of the oldest mountain ranges in the world. June 1st was the due date for the letter, so he urged them to send the letter of intent. The people of the county would thank them for doing that.

(j) Cynthia Gallinger stated she was a long-time resident of the county. Pinnacle Park had always been a treasure for the people that lived in Sylva. It could be parceled out to create additional tax revenue, but the citizens would rather go without the extra cash than trade it. She thought there were plenty of other areas that could be developed that did not have the potential to bring in tourist dollars like this property did. When they could have it for a fraction of the value and another entity was willing to foot most of the bill, it seemed like a no brainer.

(k) Henry Bryson stated he lived on Fisher Creek and had been there all of his life. The mountains they were talking about were home to him. People seem to forget about the Plott family and the Plott Bear Hound. The Plott Mountain Range had always been open to hunting and hiking. When he was young and started hunting on the property, there was only one house on the backside. Now there were so many houses being built everywhere and now that this property had become available again, he thought this was a chance to preserve the property. He wanted to see it stay open for recreation and hunting.

(l) Lynda Sossamon stated she was the Mayor of Sylva and a resident of the county. She wanted to speak for the preservation that was proposed. She requested the Commissioners support conserving the portion of the Plott Balsams that were in the county forever, for future generations. A commitment from the county was all that was needed to start moving forward to save this beautiful section of the county. The town had promised its support and the necessary funding. She asked that the County Commissioners do the same.

(m) Paige Dowling stated she was the Sylva Town Manager. The Clean Water Grant was going to be awarded somewhere and she felt it should be to them. Everything was contingent upon the grant being awarded and the Town of Sylva felt it was important to conserve because it was visible to Sylva. She felt that all of the concerns could be worked out in a conservation easement, but at that time, a commitment from the county could help this move forward by making the application more attractive.

(n) Drew Hooper stated that it was really a deal for the property. If it went to a developer, they would fill it with houses and it would look like Waynesville and they did not want that. It would ruin the creeks and the land because of building roads for houses.

(o) Gayle Woody stated she was recently in Banner Elk, Blowing Rock and into Boone. On the ridge of the mountain were a lot of high rises. As she drove home into Jackson County coming over the ridge from Balsam, she thought what a beautiful place. She was so thankful they could live in a place where they had wise development, but they also preserved the natural beauty of the mountains.

(p) Dan Schaffer stated that it was steep on the property and there was some water. He also talked to Stacy Buchanan to see if the price was negotiable, but they would not move on it and stated they would build condos. He really thought it was a reasonable purchase and would be a good addition as the top of the ridge was gorgeous.

(q) Burris Jones stated his property joined Pinnacle Park and he saw it every morning. He saw 30-40 cars per day going in there, mostly from out of town – it absolutely was a tourist attraction. He also saw buses come in from the schools and colleges to have studies up there, so it served a great many things. He had the privilege of being there for about 30 years and there were not many places left that God made that man had not messed up. They had a chance to save this one for future generations.

(3) BLACKROCK CONSERVATION / EXPANSION OF PINNACLE PARK: Mr. Adams stated that at the previous work session, the Board requested information regarding funds available in the Conservation Preservation Recreation (CPR) Fund. The current balance in the CPR Fund was \$786,959.93. The recommended budget would put \$500,000 into the fund July 1, 2018. Also, in the recommendation, they did have some capital improvements requested to be expended out of the fund for the recreation department. \$283,700 was recommended to come out of this fund next year. The total projected to be available in the fund was \$1,003,259.00.

He noted that \$250,000 was set aside for the Savannah Park, which was not included in the total number. He thought they would get the final cost on the Savannah Park the next week. The only other conversation was making sure there was enough funds available to look at a park in the Whittier-Qualla area, which was the other unknown cost.

He read the highlights from a sample letter he prepared if the Board chose to move forward:

- It was anticipated that the Town of Sylva would retain ownership of the property.
- The Conservation Fund applied to the Clean Water Management Trust Fund for a grant in the amount of \$1,005,000.
- The Conservation Fund requested that the Town of Sylva and Jackson County each contribute \$250,000 to go towards the purchase of the property.

- Then Conservation Fund anticipated that the remaining funds needed for the purchase would come from private sources.
- The Jackson County Board of Commissioners voted on May 31, 2018 at a special called meeting to commit \$250,000 towards the project with the following contingencies:
 - Approval of the Clean Water Management Trust Fund Grant application.
 - Final purchase price must be determined to be fair market value. Jackson County requested two independent appraisals be performed to estimate the fair market value.
 - The conservation easement placed on the property should allow for the most flexible use of the property in the future as it relates to passive recreational uses. Such passive recreational uses may include non-commercial hunting; non-commercial fishing; hiking; walking; non-motorized biking; scientific study; animal and plant observation; nature and environmental education; historic tours; photography; and any other purpose that was consistent with these accepted uses.
 - It was understood that the Town of Sylva and Jackson County would mutually agree on what uses listed above would be allowable in the future. This agreement would be accomplished outside of the easement.

Commissioner Deitz stated there were two terms being used, one was “preservation” and the other was “conservation”. Preservation was to preserve something as it was to never be allowed to deteriorate or change. Conservation was the wise use of the resources. From his understanding, this was a conservation project. He did not want it to become preserved one day, if this in fact did happen. He wanted it to continue to be conserved.

Chairman McMahan stated that they would execute the letter stating their intent. If the application was approved and the grant was awarded, at that point they would have a meeting with the Town of Sylva and come up with a memorandum of understanding of what the uses would be.

Mr. Adams stated that the grant would not be awarded until September and they would try to close with the owner by the end of the calendar year 2018. As far as the agreement, he would hope to have it in place by September.

Commissioner Mau thanked everyone for their comments. He went to Pinnacle and loved it up there. He was quoted in the paper a couple of weeks ago about the property coming out of the tax base and in this week’s paper he was given the opportunity to expand on that and explain his position. In going through this process, he had learned a lot about land trust easements.

He found an article written by the Brookings Institute entitled “Abusive Tax Deductions for Charitable Donations of Conservation Lands were on the rise”. Subsequently, he talked to the author about what red flags they should be looking for as a county when they went into some of these deals. One was in the letter addressing the use and access and he talked about making sure these deals were transparent, particularly if they were using public funds. The taxpayers should be aware if the beneficiaries were offered tax breaks, who was involved in the project, etc. What happened with these deals was that they were being asked to put public funds into the deal and some corporation or wealthy individual was going to get a big tax break on it. That would be a policy that they needed to think about as a county, if that was something they wanted to do.

His point was that he thought they needed a policy, as a county for the future regarding how they were going to address these issues and it would make it easier to have a process. It was a way for the county to score the projects and make sure it was something they wanted to pursue. The plan could be incorporated in the policy all on the basis of being more transparent on these types of issues.

Chairman McMahan stated that he thought they had been transparent. That was something they could talk about in the future as it did not have any impact on that day.

Commissioner Deitz stated that he did not have a problem having a policy. He thought the problem was, for example, when someone talked to the Board about school issues and about safety, they should not have to convince any of the five of them that it was important. When someone talked about the mountains and about where they lived and the clear water, they should not have to be convinced. A whole group of people should not have to walk in and convince them to save these mountains.

When they came through many different areas of the county, the first thing they looked at were those mountains. He could go on that mountain and still find old pieces of logging equipment that his granddad used. He did not want to look up there and see lights all over that mountain. He looked at those mountains every day. They should not have to convince them of how important those mountains were and they should be able to use that property. The first people that walked through those mountains saw the same thing they did today. The reason he ran for commissioner was because he loved the mountains and what they had there.

Commissioner Elders stated that he had been there his entire life and he loved the mountains.

Chairman McMahan stated he thought a policy was something they could discuss at a work session.

Commissioner Luker stated that it was not a matter of convincing them. He worked in a gated community and he did not like them. When people were enclosed and they did not let people go through a place that was maybe their heritage home grounds, he did not like it. He thought the property should be preserved, but, when it was limited or presented in a way that sounded like it was not open for uses such as hiking, biking, hunting or whatever the recreational purpose was, then he was not for preserving it. That was the reason for his questions prior to this, he wanted to make sure that if they preserved it, then it could be used for recreation if they were using public funds to buy it.

He disagreed with the Chairman about the transparency. He did not think it had been transparent 100% of what it could or should have been from the beginning that was his opinion. He thought it should be preserved and it needed to be preserved. With the conditions that were stated in the letter, that was the only way he would go forward with it and do it now and not wait. Here they were on the thirteenth hour of something that could have been worked out a lot earlier with more clear and concise transparency. He was going to vote to approve it and to preserve it.

Commissioner Deitz stated he did not think there had been any problems with transparency at all. When any of them got out and told people how things were going to be when this happened, when they really did not know what they were talking about, they should not do it, if anyone did that. The first thing he looked at and found out the next day was what they could do up there because he did not know. They were not hiding anything, they were just ignorant of the facts.

Chairman McMahan stated he wanted to provide a timeline for what happened because he did not want there to be a misunderstanding for people to think there had not been transparency, because there had been. This project spanned several years and did not just come up at the last minute. The project started as a plan where the tribe was looking at possibly acquiring this land, but with a change in tribal politics, things fell through there. Then it went on the back shelf for a long time and the conservation fund began to search for other opportunities and another way to approach it.

Sometime during last year, they started the process of trying to negotiate with the town to see if there was an interest in the town pursuing the grant and being the agency that would apply and take ownership of the property, so it was the town's project, it was not the county's project. When he was presented the request that it be done, he gave it to the County Manager and stated it was something that could not be talked about in a public meeting yet because it was not the county's project. It was not eligible to be discussed in closed session because it was not the county's project. He requested that the County Manager meet with each individual Commissioner privately and present what the proposal was and give them an opportunity to ask questions and research, which spanned several months.

That brought them to the point when the town publicly announced the project and voted on it, which then allowed the Commissioners to put it on their agenda and vote on it. So they had been fully transparent and everyone had known about this for months and had the opportunity to ask questions and research. That was the process and there had not been hidden information. He made sure the County Manager provided full access to all of the information that all of the Commissioners had.

Motion: *Commissioner Elders moved to grant permission to the County Manager to provide the letter of commit for the Blackrock Conservation/Expansion of Pinnacle Park. Commissioner Luker seconded the motion. Motion carried by unanimous vote.*

There being no further business, Commissioner Luker moved to adjourn the meeting. Commissioner Elders seconded the Motion. Motion carried and the meeting adjourned at 12:26 p.m.

Attest:

Approved:

Angela M. Winchester, Clerk to Board

Brian Thomas McMahan, Chairman