

**MACON COUNTY BOARD OF COMMISSIONERS**  
**JANUARY 9, 2018**  
**MINUTES**

Chairman Tate called the meeting to order at 6:00 p.m. and welcomed those in attendance. All Board Members, the County Manager, Deputy Clerk, Finance Director, County Attorney, members of the news media and interested citizens were present.

**ANNOUNCEMENTS:** Pat McConnell presented surprise awards to Macon County Veterans Services Director Leigh Tabor and Assistant Veterans Services Officer/Administrative Assistant Christie Black. Mr. McConnell said that he would “put Leigh and Christie up against anyone in the state” and praised their efforts on behalf of the county’s veterans. The inscription on each award read as follows: “Your care, concern, dedication and professionalism are a direct result of the best service our veterans in Macon County receive.”

**MOMENT OF SILENCE:** Chairman Tate asked those in attendance to observe a moment of silence.

**PLEDGE TO THE FLAG:** Led by Commissioner Higdon, the pledge to the flag was recited.

**PUBLIC HEARING ON PROPOSED AMENDMENTS TO THE MACON COUNTY SOIL EROSION AND SEDIMENTATION CONTROL ORDINANCE:** Chairman Tate, speaking to a boardroom full of people, noted that the public hearing was the reason that most of those in the audience were in attendance. He told them, “We hear you, and we take your thoughts into consideration.” He called the public hearing to order at 6:06 p.m. and reminded those who had signed up to speak to maintain “civil discourse” and to abide by the three-minute time limit for each speaker, adding that it was in his discretion to “fudge a little bit” as needed. He then asked the County Manager to provide some opening comments. The County Manager provided an overview of the amendment process up to this point, as well as an outline of the next steps. He also attempted to clarify some comments and questions he had heard regarding the amendments. He closed by stating, “We’ve done nothing to change the purpose of this ordinance,” pointing out that it has been in place since 2008. Commissioner Higdon raised some questions about exclusions and exemptions

in the amendment and what qualifies as a "land disturbing activity," to which the County Manager responded. Jack Morgan, the county's director of Planning, Permitting and Development, then offered his comments on the planning board's work in producing the proposed amendment, stating that this work was "not done in the dark, not done overnight." Commissioner Beale then gave a brief history of the circumstances that prompted the ordinance in the first place, with Commissioner Higdon saying the initial program was never enforced. Prompted by questions of where the ordinance would be applied, Mr. Morgan explained that the Town of Highlands has its own program, and that the ordinance would be applicable within the Town of Franklin unless officials there adopt their own. The County Attorney said that he believes the board would hold another public hearing on the amendments prior to final approval. Chairman Tate then opened up time for public comments, beginning with **Howell Jacobs**. Mr. Jacobs questioned the need to "come to the courthouse and get permission to do something" and directly asked Commissioner Higdon how the amendments "will benefit Howell Jacobs in Nantahala." He also questioned why the "old ordinance" didn't work. **Danny Smeltzer** questioned the need to sign an affidavit in order to do work on his property. Pointing out that signing the affidavit would prevent him from selling his property for one year, Mr. Smeltzer said he doesn't have a clue what will happen in the next year, adding his belief that this provision will not "stand up" in court. He also questioned how the county would ensure that if people from neighboring counties do grading work in Macon that they will take the test and obtain the grading license. **Randy Shook** told the board that he has several major concerns about the amendments, and that the more he read the document the more confused he became. "I'm very concerned about what I can do on my own property," he said, adding, "I think we're going a little bit overboard. He said the affidavit provision is "ridiculous." **Kathy Tinsley**, the vice chair of the Macon County Planning Board, thanked the County Manager for providing the audience with the background on the amendment process. She said that during that time, as the planning board members talked with contractors, the feeling was that the contractors were in favor of "more bite" in the ordinance, but she also said that the planning board may need to go back and review the definitions. **Betty Cloer Wallace** read from a prepared statement, a copy of which is attached (Attachment 1) and is hereby made a part of these minutes. During this, she posed many questions regarding the amendments, and then said, "This proposal, however, as now written, is a solution in search of a problem." She later stated, "This proposal needs to be scrapped, or at least seriously rewritten, clarified and refocused as to purpose and implementation in a manner that respects and protects the personal property rights of our citizens." **David Culpepper** raised questions about the applicability of the ordinance amendments as well as some of the definitions, at times asking the board to have the County Attorney address his questions. He told the board that the proposed amendment was "not well written" and suggested that the

commissioners enforce the existing ordinance. **Ben Laseter** said that MainSpring and other organizations before it had worked to preserve the county's streams and to minimize sediment input, and he encouraged the county to continue taking steps "to protect our clear mountain waters." **Angela Moore** expressed concerns about some of the wording in the amendments, noting that the term "grading" is not defined, and said she opposed the affidavit requirement. After offering one remaining opportunity for those in the audience to speak, Chairman Tate closed the public hearing at 7:12 p.m. and requested nine e-mails that he and other board members had personally received on this issue be included in the minutes of the meeting. Those e-mails are collectively attached as Attachment 2 and are hereby made a part of these minutes. Chairman Tate then opened the floor for continued discussion among the board members, and started by saying that the hearing "opened my mind a little bit" and described portions of document as "vague," which he said causes confusion. Commissioner Beale said some very good points were brought up, including those offered by Mrs. Wallace. He noted that the initial intent of the ordinance was to "protect your neighbor," and added that the board really needed to think about the affidavit provision. Commissioner Shields said there were "a number of things that made me perk up a little bit," including residents from counties working in Macon needing to have the grading license, as well as the affidavit issue. He also questions, "Is the writing clear?" Commissioner Higdon said that the board is an "occupational licensing authority," but that the ordinance and its proposed amendment "is of no value to anyone." He said it was never an adequate program, and that "I trust in the knowledge of the individual property owner that he is not going to damage his property." Commissioner Gillespie expressed his thanks to Mr. Morgan and the members of the planning board for the work on the amendments, and his thanks to those who came out and commented. He encouraged them to attend meetings of the planning board to hear this type of work discussed and to have this input "early on." He said a lot of great points were brought up, and that we "need clarity of language." In closing, Chairman Tate said the only new regulation adopted in recent memory by the board was to make the county's recreation parks tobacco free, and with that, he closed debate on the matter at 7:28 p.m. and allowed time for those who wanted to leave the boardroom to do so.

**PUBLIC COMMENT:** **Howell Jacobs** addressed the board regarding the recycling center and public buildings in Nantahala, and asked, "Has anybody been to Nantahala to address anything I talked about?" Regarding what he called a "muddy site" at the community's convenience center, he told the board that "it doesn't seem like anyone cares. Macon County Solid Waste Director Chris Stahl responded that he wished all of the county's centers were paved, noting five were and six were not, adding that Nantahala is not getting picked on. This led to continued discussion between Mr. Jacobs, Mr. Stahl and the

board members about how to improve conditions at the site. Commissioner Higdon also commented that the Nantahala community building's needs would be addressed through the county's upcoming Capital Improvement Program (CIP) process. **Jennifer Hays** asked what could be done about citizens leaving trash at the locked gates of the convenience centers. She said she had also spoken to Town of Franklin officials about this matter, and it came to her attention as her father works for the county's Solid Waste Department. "It's our community that is doing it to each other," she said. This led to further discussion between Ms. Hays, Mr. Stahl and Sheriff Robert Holland. **Ashley Streit** also addressed the same topic as her sister, and questioned what the county solid waste employee tasked with "enforcement" did. Mr. Stahl responded that this employee's role was more focused on illegal dump sites than littering. She said her objective was to raise awareness of the issue and asked the county to do more to "get the word out" to the public about the centers' hours of operation and other matters.

**ADDITIONS, ADJUSTMENTS TO AND APPROVAL OF THE AGENDA:** Upon a motion by Commissioner Gillespie, seconded by Commissioner Shields, the board voted unanimously to approve the agenda as adjusted, as follows:

- To add consideration of a resolution exempting surveying services for the South Macon School expansion project as the new Item 10C under Old Business, per the County Manager.
- To add discussion of an extension of the lease agreement with Southwestern Community College for the current burn building property as Item 10D under Old Business, per the County Manager.

**AUDIT PRESENTATION FOR FISCAL YEAR 2017:** Matt Braswell with the firm of Martin Starnes & Associates, CPAs presented a PowerPoint presentation of the county's annual financial report for the year ended June 30, 2017. Among the highlights of Mr. Braswell's presentation:

- The county received an "unmodified opinion," which is "clean" and the "best you can receive," along with his thanks for a "cooperative staff."
- The total fund balance for the general fund grew by \$772,124 to a new total of \$26,210,471, which serves as a measure of the county's financial resources available.
- The "available" fund balance position for 2017 was \$22,202,775, up from \$21,885,857 in 2016, an increase of \$316,918. Mr. Braswell noted that the county has roughly 5.5 months of financial "supply" on hand.
- In terms of the general fund summary, both revenues and expenditures were up in 2017 over 2016.
- The top three revenues in the general fund are ad valorem taxes, restricted intergovernmental and local option sales tax, with ad valorem taxes holding the biggest share at 56 percent. These three together

comprise 90 percent of the county's revenue, and all three sources saw increases over 2016 levels.

- The top three expenditures in the general fund were public safety, human services and education, and the three combined to account for 73 percent of total expenditures. All three categories also exceeded 2016 levels.

During the discussion and question period, Chairman Tate pointed out that there was a cost increase in the price of the audit every year, but Mr. Braswell noted that the procedures for the single audit are changing again, making a decrease in the cost unlikely. No action was taken.

**COWEE SCHOOL ARTS & HERITAGE CENTER REPORT:** Bob McCollum, representing the Cowee School Arts & Heritage Center, gave a mid-year review and progress report on events at the facility. Saying the center had "a great year," he noted that user visits were up about 2,000 from last year to 9,000. He said the center had received a large grant (\$47,500) from the Cherokee Preservation Foundation. In terms of income and expenses for calendar year 2017, he said the center was up almost \$4,000. Mr. McCollum asked for another meeting between county officials and members of the center's board, and that was tentatively set for the third Monday in March. He also asked the board for \$18,000 to continue operating the center for the remainder of the fiscal year. Following discussion, Commissioner Beale made a motion to approve the request and to take the \$18,000 from contingency. Commissioner Gillespie seconded the motion, and all favored. A copy of Mr. McCollum's handout to the board is attached (Attachment 3) and is hereby made a part of these minutes.

**AMENDED TIRE RECYCLING CONTRACT WITH US TIRE:** Mr. Stahl and the County Attorney provided a brief overview of the negotiations with US Tire regarding a tire recycling contract with the firm. In the end, both sides agreed to a five-year agreement with two, one-year renewal options. After further discussion, and upon a motion by Commissioner Shields, seconded by Commissioner Beale, the board voted unanimously to approve the agreement as submitted, with an initial five-year period followed by two, one year options for renewal. A copy of the "Recycling & Disposal Contract" is attached (Attachment 4) and is hereby made a part of these minutes.

**MEMORANDUM OF UNDERSTANDING WITH MACON COUNTY BOARD OF EDUCATION:** The County Attorney explained that the Macon County Board of Education has the right to select the architectural firm to prepare plans for the expansion of South Macon Elementary School. However, he also noted that the county has been administering the construction work on such school projects as these, thus presenting a bit of conflict. Thanks to the work of the commission's liaisons to the school system, the County

Attorney said the architectural firm will be evaluated by both parties, and with the Board of Education members happy with the chosen firm, it enables the project to move forward. After further discussion, and upon a motion by Commissioner Beale, seconded by Commissioner Shields, the board voted unanimously to approve the "Memorandum of Understanding Between the Macon County Board of Commissioners and the Macon County Board of Education Re: South Macon Elementary School Project, a copy of which is attached (Attachment 5) and is hereby made a part of these minutes.

**RESOLUTION EXEMPTING SURVEYING SERVICES:** Following an explanation by the County Attorney and the County Manager, and upon a motion by Commissioner Shields, seconded by Commissioner Gillespie, the board voted unanimously to approve a "Resolution Exempting Surveying Services for South Macon School Classroom Expansion Project in Macon County, North Carolina, from the Provisions of Article 3D of Chapter 143 of the North Carolina General Statutes," a copy of which is attached (Attachment 6) and is hereby made a part of these minutes. The statute allows the county to exempt such projects where the estimated professional fee is less than \$50,000, and in this case, the fee is expected to be \$6,500 or less.

**EXTENSION OF BURN BUILDING AGREEMENT:** The County Attorney told the board that he would recommend an extension of the current lease with Southwestern Community College (SCC) regarding the property for the burn building for an additional five years. He also suggested a stipulation that either side can cancel the lease with 30 days' notice, and for the board to authorize the County Manager to enter into the agreement. Upon a motion by Commissioner Shields, seconded by Commissioner Gillespie, the board voted unanimously to approve the terms of the agreement as presented.

**PROPOSED AMENDMENTS TO THE ANIMAL CONTROL ORDINANCE:** Macon County Public Health Director Jim Bruckner distributed copies of proposed amendments to the county's Animal Control Ordinance. He explained that most of the changes were "cosmetic" and centered on definitions and terminology. The proposed amendments have been reviewed by the Board of Health, and Mr. Bruckner told the board he was seeking their review of and consideration of the amended document at the next regular meeting. The County Attorney pointed out that the ordinance was amended when Animal Control was moved under Public Health after being a standalone department, but he said those changes were of the "band aid" variety. Commissioner Beale commented that the improvements are really good and that the ordinance is more readable. He also pointed out that there would be a separate ordinance for the dangerous dog board. Although

a public hearing is not required, Commissioner Gillespie requested one, and upon his motion, seconded by Commissioner Shields, the board voted unanimously to hold a public hearing on the proposed amendments at the board's February 13, 2018 regular meeting.

**SATISFACTION OF SECURITY INSTRUMENT:** Following brief comments from the County Attorney and upon the recommendation of Housing Director John Fay, upon a motion by Commissioner Beale, seconded by Commissioner Shields, the board voted unanimously to approve a Satisfaction of Security Instrument for Mary Estalee Bradley, a copy of which is attached [Attachment 7] and is hereby made a part of these minutes.

**SCHEDULE DATE FOR MID-YEAR REVIEW AND BUDGET WORK SESSION:** The County Manager asked the board to consider a date and time to hold a mid-year review and budget kickoff work session. He said that the budget calendar would be distributed at that meeting, and that the board would receive a presentation on a rough draft of the Capital Improvement Program (CIP). Following discussion, the board members agreed to hold the meeting on Friday, February 9, 2018 in the commission boardroom, beginning at 12 p.m., with lunch for the commissioners and staff to be available at 11:30 a.m.

**CONSENT AGENDA:** Upon a motion by Commissioner Gillespie, seconded by Commissioner Shields, the board voted unanimously to approve the items on the consent agenda as follows: the minutes of the November 28, 2017 continued session and the December 12, 2017 regular meeting; the following budget amendments: #98 to appropriate \$550 in foster care donations to the Department of Social Services and #99 for the Housing Department to move \$102,762 in budgeted funds into various line items; (Copies of the amendments are attached); tax releases for the month of December in the amount of \$54.92; monthly ad valorem tax collections report (no action necessary).

**APPOINTMENTS: (1) ETJ Representative on the Town of Franklin Planning Board:** Upon a motion by Commissioner Gillespie, seconded by Commissioner Beale, the board voted unanimously to reappoint Janet Greene as the ETJ (extraterritorial jurisdiction) representative on the Town of Franklin Planning Board for a term of one year to expire on January 2, 2019.

**CLOSED SESSION:** At 9:00 p.m., upon a motion by Commissioner Beale, seconded by Commissioner Gillespie, the board voted unanimously to go into closed session for the purpose of preserving the attorney-client

privilege. At 10:06 p.m., upon a motion by Commissioner Higdon, seconded by Commissioner Beale, the board voted unanimously to come out of closed session and return to open session. No action was taken.

**RECESS:** At 10:07, with no other business and upon a motion by Commissioner Higdon, seconded by Commissioner Gillespie, the board voted unanimously to recess the meeting until Friday, February 9, 2018 at 12 p.m. in the commission boardroom on the third floor of the Macon County Courthouse, located at 5 West Main Street in Franklin, NC, for the purpose of holding a mid-year review and budget work session.

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Derek Roland  
Ex Officio Clerk to the Board

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Jim Tate  
Board Chairman