

**MACON COUNTY BOARD OF COMMISSIONERS  
OCTOBER 13, 2020  
MINUTES**

Chairman Tate called the meeting to order at 6:02 p.m. and welcomed those in attendance. All Board Members, County Manager Derek Roland, Deputy Clerk Mike Decker, Finance Director Lori Carpenter, County Attorney Chester Jones, members of the news media and interested citizens were present.

**ANNOUNCEMENTS:** The board members recognized Mr. Jones for his 11 years of service as county attorney. Chairman Tate said the county commission was “honored and blessed to have you serve us,” and praised Mr. Jones for his “educational and non-biased perspective.” Commissioner Higdon wished Mr. Jones the best in retirement and thanked him for his service, and Commissioner Gillespie described Mr. Jones’ “steady hand” in his work with the board. Commissioner Beale thanked Mr. Jones and his wife, Susan, and said, “I hate to see him go,” and Commissioner Shields expressed his thanks as well. Mr. Roland noted he and Mr. Jones have worked closely together for seven years, adding that Mr. Jones’ “ethical standards are unparalleled.” Mr. Roland said there were many things the county accomplished that “we could not have done without him,” and described Mr. Jones as a “first-class individual.” Sheriff Holland commented that he had worked with Mr. Jones during his entire career as sheriff, and pointed that when a final legal document was produced, it was “a guarantee you could count on.”

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

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

**PUBLIC HEARING ON THE PROPOSED AMENDED AND RESTATED WIRELESS TELECOMMUNICATION FACILITIES ORDINANCE:** Chairman Tate called the public hearing on the proposed Amended and Restated Wireless Telecommunication Facilities Ordinance to order at 6:07 p.m. and recognized Joe Allen with the county’s Planning, Permitting and Development (PP&D) Department. Mr. Allen explained that the commissioners had asked the Macon County Planning Board to “streamline the process” for the approval of these types of towers, and after “hard work and a lot of debate,” he was presenting a

revised ordinance for the board's consideration. He told the board that, in a nutshell, the updated ordinance "simplifies the process," and allows for towers that are 50 to 125 feet in height to be constructed and used for broadband purposes only. In addition, instead of these applications going through a public hearing before the commission, they instead will go directly through an administrative process with county planning staff for approval, and there is a mechanism to allow the applicant to appeal a staff decision to the planning board. Mr. Allen and Mr. Jones answered the board's questions regarding the technical aspects of the ordinance, and Mr. Roland pointed out that the Macon County Board of Education and the Macon County Economic Development Commission wrote letters of support for the revised ordinance, and Mr. Jones suggested those letters be included in the minutes. Commissioner Higdon asked about neighboring Jackson County's ordinance on this topic, and Commissioner Gillespie made comments about the use of 911 equipment on the smaller towers and asked questions about setbacks and notification to adjoining property owners, and noted his concern about the planning board's role in the appeals process. Mr. Jones pointed out there are no exceptions to the use of the smaller towers, and no 911 or emergency equipment could be placed upon them – they are for broadband only. Mr. Roland asked the board to give the revised ordinance a trial run, as it could help bring broadband into the county more quickly, and it turns "a months-long process into a days-long process." Following more questions and further discussion among the board members, Mr. Allen and Mr. Jones, Mr. Allen noted that the environmental impact of the allowable towers is lower, as they are not high enough to require a warning light. With no other questions and with no one signed up to speak, Chairman Tate closed the public hearing at 6:32 p.m. Commissioner Shields made a motion to approve the amended and restated ordinance as presented and to include the letters of support in the board's minutes, and Commissioner Beale seconded the motion. Following further discussion, the board voted unanimously to approve "An Ordinance of the Macon County Board of Commissioners for an Amended and Restated 'Wireless Telecommunication Facilities Ordinance' of Macon County, North Carolina, Which Amends and Restates the Existing Wireless Telecommunication Facilities Ordinance of Macon County, North Carolina," a copy of which is attached (Attachment 1) and is hereby made a part of these minutes. Also attached are letters of support from the county's board of education and economic development commission, (Attachments 2 and 3, respectively) and these are hereby made a part of these minutes.

**PUBLIC COMMENT PERIOD:** No one signed up to speak.

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

- To add a request from Ron Haven to hold a gun show at the Robert C. Carpenter Community Building as the first item under New Business, per Commissioner Higdon.
- To remove Item 9A under Reports/Presentations – Update on new Southwestern Community College (SCC) burn building – per Mr. Roland.
- To add a report stemming from the most recent Rural Planning Organization (RPO) meeting as the new Item 9A under Reports/Presentations, per Commissioner Beale.
- To add consideration of a local CARES Act funding request under New Business as Item 11G, per Mr. Roland.
- To hold a brief closed session to discuss a personnel matter immediately following the conclusion of the Reports/Presentations segment of the agenda, per Chairman Tate.
- To add consideration of a lease agreement for the Smoky Mountain Center for the Performing Arts for use as an alternate court site as Item 11H under New Business, per Mr. Jones.
- To add consideration of Budget Amendment #94 under Item 12B on the Consent Agenda, per Mrs. Carpenter.

**RURAL PLANNING ORGANIZATION UPDATE:** Commissioner Beale briefed the board members in regard to a recent meeting of the Southwestern Commission Rural Planning Organization (RPO), and updated them on the status of North Carolina Department of Transportation projects affecting U.S. 441 south of Franklin and on Cowee Mountain in Jackson County.

**TOURISM DEVELOPMENT COMMISSION BUDGET PRESENTATION:** Mr. Roland provided the board with a brief summary of the changes in the proposed 2020-21 budget for the Franklin/Nantahala Tourism Development Commission (TDC) budget, as adjusted. He explained that Linda Harbuck, the Executive Director of the Franklin Area Chamber of Commerce, had to reduce the TDC budget by \$50,000, but due to some offsetting factors, there has been a net gain of \$28,000 in the TDC’s revenue line. Following further comments, he recommended that the board approve the adjusted budget. Mrs. Harbuck explained the TDC budget process, and noted she was “very pleased we had more money than we expected to have,” and was surprised by the “comeback” in the revenue from the lodging tax. She did point out that in one of the early months of the COVID-19 pandemic, lodging tax revenue was down 87 percent, which promoted the redo of the budget. Since April, revenue from the tax has been up. Commissioner Shields, a member of the TDC, thanked Mrs. Harbuck for her leadership, and made a motion to approve the adjusted budget as presented. Commissioner Higdon seconded the motion, and all favored. Copies of the TDC’s budget documents that were presented to the board are attached (Attachment 4) and are hereby made a part of these minutes.

**CLOSED SESSION:** At 6:51 p.m., upon a motion by Commissioner Beale, seconded by Commissioner Shields, the board voted unanimously to go into closed session for the purpose of discussing a personnel matter as allowed under NCGS 143-318.11.(a)(6). Upon a motion by Commissioner Beale, seconded by Commissioner Higdon, the board voted unanimously to return to open session at 6:57 p.m.

**INTERMIM COUNTY ATTORNEY:** Mr. Roland explained that Franklin attorney Fred Jones had withdrawn from consideration as the next county attorney. Mr. Roland said he had reached out to neighboring Swain County, and that Kim Carpenter was willing to serve as the interim county attorney following Mr. Jones' retirement on October 31<sup>st</sup>. He said Kim Carpenter has agreed to serve for no more than 60 days at a rate of \$200 per hour, which is the current rate paid to Mr. Jones. Mr. Roland said Kim Carpenter comes highly recommended and has served as Swain County's attorney since 1997. Commissioner Beale made a motion to appoint Kim Carpenter as interim county attorney for a period not to exceed 60 days beginning November 1, 2020 and to authorize Mr. Roland to present her with a contract. Commissioner Higdon seconded the motion, and all favored.

**PRESENTATION TO MR. JONES:** Chairman Tate, noting "now that we have a new [county attorney] lined up," presented Mr. Jones with a gift from the board and again expressed the commission's gratitude for his service to the county.

**MACON MIDDLE SCHOOL RENOVATION PROJECT:** Mr. Roland outlined for the board a revised process for selecting a contractor for the Macon Middle School Renovation Project, which is estimated to cost approximately \$13 million. Mr. Roland explained that the county's prequalification policy had been revised, since it was previously used for a landfill project, adding that it now fits a school project. Also, he said a grading matrix for selecting a contractor has been prepared, and that matrix will be used by a committee composed of appointed county personnel as well as four members to be selected by the Macon County Board of Education. No elected officials will serve on the committee. Mr. Jones recommended that the board first approve the revised prequalification policy, then the committee as outlined, and finally the forms associated with the prequalification process. Upon a motion by Commissioner Higdon, seconded by Commissioner Beale, the board voted unanimously to approve the "Prequalification Policy" for Macon County, North Carolina, a draft copy of which is attached (Attachment 5) and is hereby made a part of these minutes. Upon a motion by Commissioner Higdon, seconded by Commissioner Shields, the board voted unanimously to appoint Jack Morgan, Lori Carpenter, Lindsay Leopard, Derek Roland and a representative of SGA/Narmour (the project's architectural firm) to serve on the committee, along with the four members to be named by the Macon County Board of Education. Upon a

motion by Commissioner Beale, seconded by Commissioner Shields, the board voted unanimously to approve the "Prequalification Form for Prime Contractor for Macon Middle School Renovations" as well as the "Contractor Prequalification Ratings Matrix." Copies of both documents are attached (Attachments 6 and 7, respectively) and are hereby made a part of these minutes. Following further discussion, and upon a motion by Commissioner Beale, seconded by Commissioner Shields, the board voted unanimously to approve the final plans for the renovation project as presented to the liaison committee by the project architect, along with additions that were outlined in an email to Mr. Roland dated October 8, 2020. Mr. Jones noted that those "are very small changes."

**GUN SHOW REQUEST:** Ron Haven requested that the board consider allowing him to have a gun show at the Robert C. Carpenter Community Building in early 2021. Following discussion, Mr. Roland suggested having Emergency Services Director Warren Cabe and Public Health Director Kathy McGaha consider Mr. Haven's request in light of current COVID-19 guidelines. Chairman Tate told Mr. Haven that the board would consider his request at the November regular meeting after getting feedback from county staff, and asked that this item be placed under Old Business at that meeting. No action was taken.

**BLUE RIDGE BROADCASTING LEASE:** Mr. Jones told the board that Blue Ridge Broadcasting Corporation had approached Mr. Roland regarding use of space on the Cowee Bald communications tower as well as use of the associated transmitter building. He noted that Sutton Broadcasting Corporation has three translators on the tower, and is selling one of those to Blue Ridge. Mr. Jones said that instead of a new lease agreement, the county can simply consent to the new arrangement. He said that consent is also needed from the U.S. Forest Service and the Federal Communications Commission. Following further discussion, and upon a motion by Commissioner Beale, seconded by Commissioner Shields, the board voted unanimously to authorize Mr. Roland to consent to a sublease arrangement as opposed to a new lease agreement as discussed.

**GUY TAYLOR MEMORIAL SCHOLARSHIP:** Mr. Roland pointed out that this was essentially "a matter of housekeeping," as the Macon County Youth Endowment and the Guy Taylor Memorial Scholarship are being combined, and going forward, the endowment will be used equally to provide scholarships to graduating seniors of Franklin High School, Highlands School and Nantahala School. Following brief discussion, and upon a motion by Commissioner Higdon, seconded by Commissioner Shields, the board voted unanimously to approve "Amendment 1" to the Guy Taylor Memorial Scholarship.

**ALTERNATIVE JURY TRIAL SITE:** Mr. Jones told the board that a copy of the proposed lease between the county and Drake Entertainment Properties, LLC was included in their agenda packets. Due to COVID-19 and the need for appropriate social distancing, the chief justice of the state's Supreme Court mandated that counties come up with an alternative site if the courtrooms in the county courthouse were not sufficiently large to accommodate a jury pool. Mr. Jones stated that Macon County's was not. In turn, the county was offered the use of the Smoky Mountain Center for the Performing Arts (SMCPA) for this purpose at the "incredible rate of \$300 a day," Mr. Jones said. He noted that the county would need to acquire additional insurance, and had obtained a rider on its liability policy to cover this. Payment for this lease can come from CARES Act funds, and the lease will run from now until the first of May 2021. Upon a motion by Commissioner Higdon, seconded by Commissioner Shields, the board voted to approve the lease agreement as presented and to appropriate \$6,000 from the contingency line item to cover the lease expenses. A partially-executed copy of the Lease Agreement is attached (Attachment 8) and is hereby made a part of these minutes.

**JURY TRIAL RESUMPTION PLAN:** In a related matter, Mr. Jones asked the board to consider approval of a Jury Trial Resumption Plan for Macon County, and following a brief discussion, upon a motion by Commissioner Beale, seconded by Commissioner Shields, the board voted unanimously to approve the plan as presented, a partially-executed copy of which is attached (Attachment 9) and is hereby made a part of these minutes.

**HOUSING DEPARTMENT VEHICLE:** Finance Director Lori Carpenter, speaking on behalf of the Macon County Housing Department, asked the board to consider two resolutions. The first would be to declare a 2008 Ford Ranger truck assigned to the department as surplus. The second would in turn donate that truck to Central Piedmont Community Action, Inc. Lori Carpenter also noted that the department will be receiving a four-wheel-drive Nissan Frontier truck from Blue Ridge Community Action. Upon a motion by Commissioner Shields, seconded by Commissioner Beale, the board approved the following resolutions on a single vote: (1) a "Resolution Declaring Certain Property Surplus" and (2) a "Resolution of the Macon County Board of Commissioners Making Donation of Truck to Central Piedmont Community Action, Inc." Copies of the resolutions are attached (Attachments 10 and 11, respectively) and are hereby made a part of these minutes.

**FREE FLU SHOTS FOR UNINSURED INDIVIDUALS:** Mr. Roland directed the board's attention to a memorandum from Public Health Director Kathy McGaha, who is seeking board approval for funding to provide free flu shots for uninsured individuals living or working in the county. A copy of the memorandum is attached (Attachment 12) and is hereby made a part of these

minutes. The anticipated cost of this program was estimated at \$8,928. Following discussion, and upon a motion by Commissioner Beale, seconded by Commissioner Shields, the board approved the request in an amount not to exceed \$10,000, and made the approval contingent upon approval of the proposal by the Macon County Board of Health.

**CONTRACT DOCUMENTS FOR HOSPICE HOUSE:** Mr. Jones announced that there is “a big stack of papers that have to be approved by this board” in connection with the contract agreement for the “Hospice House” project. He recommended that the board approve the grant agreement contained in the project paperwork and to authorize Chairman Tate to sign the document. The project has been awarded a \$70,000 grant from the North Carolina Rural Infrastructure Authority, and the county’s match is \$3,500, and Lori Carpenter asked that the board also approve a budget amendment in the amount of \$73,500 in connection with the project, with the matching funds to come from contingency. Commissioner Beale made a motion to authorize Chairman Tate to sign the grant agreement and to approve the budget amendment as requested. The motion also indicated that no deed of trust will be provided. Commissioner Higdon seconded the motion, and all favored. A copy of the grant agreement is attached (Attachment 13) and is hereby made a part of these minutes.

**CARES ACT FUNDING REQUEST:** Mr. Roland explained that the Macon County Fair Association has allowed the Macon County Fairgrounds to be used as an emergency food distribution site during the coronavirus pandemic. However, the pandemic has also caused the annual county fair to be scaled back this year. In order to keep the buildings open, Mr. Roland told the board, the county needs to make sure the fair association’s bills get paid for a period of five months. The cost associated with this is \$8,210, he explained, and said the money could be taken out of the county’s CARES Act appropriation. Commissioner Beale pointed out that 22,000 pounds of food have been distributed at the fairgrounds, and that other food distribution sites did not work. Upon a motion by Commissioner Higdon, seconded by Commissioner Shields, the board voted unanimously to approve the appropriation.

**CONSENT AGENDA:** Upon a motion by Commissioner Beale, seconded by Commissioner Shields, the board voted unanimously to approve the consent agenda as presented, which includes: (A) the minutes of the July 14, 2020 regular meeting and the August 11, 2020 regular meeting; (B) budget amendment #76 for Parks and Recreation to carry forward \$67,500 in capital improvements funding for a pathway connecting the sidewalk on NCDOT Bridge No. 22 to the Little Tennessee River Greenway; #77 for the Sheriff’s Department to carry forward \$708 in donated funds for meals; #78 for the Health Department to receive additional funding totaling \$14,492 for an

Immunization Action Plan; #79 for the Board of Elections to appropriate \$82,571 in CARES Act funds awarded to the Board of Elections for COVID-19 related election expenses; #80 for the Emergency Services Department to appropriate \$140,000 from a Homeland Security Grant; #81 for the Sheriff's Department to appropriate \$21,083 in K9 donations for the purchase of a K9 and a trailer; #82 for the Sheriff's Department to appropriate \$1,500 in drug buy money that was seized and returned to the county by court order; #83 for the Sheriff's Department to appropriate \$9,232 in funding for riot gear; #84 for the Health Department to decrease funds from the Appalachian Mountain Community Health Grant by \$26,564 for the current fiscal year; #85 for the Health Department to receive \$68,250 in Year2 grant funds from the Appalachian Mountain Community Health Centers; #86 for the Sheriff's Department to appropriate \$4,810 from calendar sales; #87 for the Health Department to receive \$2,508 in additional funding for WIC Client Services; #88 for the Department of Social Services to allocate \$964 from an insurance settlement for car repairs; #89 for the Health Department to carry forward \$125 in unexpended contribution money to the current fiscal year and #90 for the Sheriff's Department to allocate \$9,597 from an insurance settlement for vehicle repairs (copies of the amendments are attached); (C) tax releases for the month of September in the amount of \$2,135.55; (D) accepted the Settlement Report for 2019, which includes an item for "Relief of the Taxing Unit for Collection of Real Estate Taxes that are Ten Years Past Due" in the amount of \$30,565.02; (E) a recommendation from Tax Administrator Abby Braswell to refund \$354.03 in 2019 taxes to Phil Scruggs for a house located at 512 Cowee Creek Road that was destroyed by fire on September 10, 2018 and was not rebuilt, based on her recommendation that the house was not there on January 1, 2019 and that the tax levied was illegal and (F) received the monthly ad valorem tax collections report for the month of October, which shows an overall 43.04 percent collection rate as of September 30, 2020, and for which no action was necessary.

**CLOSED SESSION:** At 7:57 p.m., upon a motion by Commissioner Beale, seconded by Commissioner Higdon, the board voted unanimously to go into closed session for the purpose of preserving the attorney/client privilege under NCGS 143-318.11(a)3). At 9:11 p.m., upon a motion by Commissioner Beale, seconded by Commissioner Shields, the board voted unanimously to come out of closed session and return to open session. No action was taken.



**ADJOURN:** With no other business, at 9:12 p.m., upon a motion by Commissioner Beale, seconded by Commissioner Shields, the board voted unanimously to adjourn.

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Derek Roland  
Ex Officio Clerk to the Board

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Jim Tate  
Board Chairman