

**MACON COUNTY BOARD OF COMMISSIONERS  
AUGUST 12, 2014  
MINUTES**

Vice-Chairman Beale called the meeting to order at 6:00 p.m. All Board Members with the exception of Chairman Corbin, the County Manager, Deputy Clerk, Finance Director, County Attorney, members of the news media and interested citizens were present.

**ANNOUNCEMENTS:** Vice-Chairman Beale addressed the overflow crowd in the boardroom, and explained that the meeting would not be moved to Courtroom A on the fourth floor of the courthouse. He then made a series of announcements regarding some upcoming events, including: a transportation related meeting in Sylva on August 29<sup>th</sup>, the celebration of the 50<sup>th</sup> anniversary of the LBJ Job Corps Center August 18-22, a public education forum to be hosted by the League of Women Voters on August 20<sup>th</sup>, and free estate planning to be offered at the Highlands-Cashiers Hospital on September 12<sup>th</sup>.

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

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

**PUBLIC HEARING ON TELECOMMUNICATION TOWER APPLICATION FROM CELLCO PARTNERSHIP:** Vice-Chairman Beale called the hearing on the telecommunication tower application from Cellco Partnership to order at 6:08 p.m. and recognized County Planner Matt Mason, who provided an overview of the application. Mr. Mason indicated that the proposed site for the tower off Bud Perry Road is just outside the Town of Franklin's Extraterritorial Jurisdiction (ETJ), but is located within the conical zone of the Macon County Airport. He said the Federal Aviation Administration (FAA) would require the 180-foot-tall monopole tower to be lit and marked, and he then read his letter recommending denial of the application into the record. A copy of that letter is

attached (Attachment 1) and is hereby made a part of these minutes. Following questions from the commissioners regarding the area to be served by the tower, Vice-Chairman Beale recognized those who had signed up to speak, beginning with **George Sistrunk**, who explained that he was there on behalf of the applicant. Mr. Sistrunk said that if the tower was less than 200 feet in height, there was no FAA requirement for lighting and marking. However, he requested that, if the board was inclined to deny the application, Cellco be granted a continuance so that his client could further investigate the site. **Kasmer Pleskach** of 1199 Windy Gap Road said his only question concerned the actual location of the tower, which Mr. Mason showed him on a map. **Miles Gregory**, the chairman of the Macon County Airport Authority, told the board that the authority opposes the construction of the tower, saying it would be an obstruction to descending aircraft that utilize an IFR or instrument flight rules landing system. Mr. Gregory read a letter from the authority into the record, a copy of which is attached (Attachment 2) and is hereby made a part of these minutes. Mr. Mason then read a letter from Reggie and Pam Perry of 40 Bud Perry Road that addressed concerns about the maintenance of the road leading to the tower site as well as property values and water runoff. A copy of that letter is also attached (Attachment 3) and is hereby made a part of these minutes. Mr. Sistrunk reiterated his request for a continuance. The County Attorney suggested that the board could hold the application from Cellco open, close this hearing and then hold a new hearing at the appropriate time. Following brief comments from the board, Vice-Chairman Beale closed the public hearing at 6:32 p.m. Upon a motion by Commissioner Haven, seconded by Commissioner Higdon, the board voted unanimously to deny the telecommunication tower application from Cellco Partnership.

**PUBLIC HEARING ON TELECOMMUNICATION TOWER APPLICATION BY TOWER ENGINEERING PROFESSIONALS:** Vice-Chairman Beale called the hearing on the telecommunication tower application by Tower Engineering Professionals to order at 6:33 p.m. and recognized Mr. Mason, who provided an overview of the application. Mr. Mason explained that American Tower Corporation, the firm that would own the proposed tower, had no agreements with any cellular providers at this time, and that the firm had not performed a propagation study. His recommendation to the board was to deny the application for the proposed 180-foot monopole tower, and read his recommendation letter into the record, a copy of which is attached (Attachment 4) and is hereby made a part of these minutes. Vice-Chairman Beale then recognized those who had signed up to speak. **James Banks** told the board that he and his wife, Vera, were adjoining property owners near the proposed tower site of 2533 West Old Murphy Road. He said his main concern was the effect of the tower on his property's value, and he cited studies of the adverse health effects caused by cellular towers. "We don't want it," he said. **James C. Rehberg, Jr.** said his family owned property at 2381 West Old Murphy Road.

An electrical engineer, Mr. Rehberg stipulated that he was in favor of better cell coverage, but opposed the height and appearance of the proposed tower. He asked to see the analysis of the choice of the tower site, asked that it be moved to a higher elevation, asked to see the propagation studies and requested that the board direct the owner to camouflage the tower as a tree. **Les Slater** said that he lives about one-half mile from the proposed tower, and while he supports cell towers, he asked the board to change the county's ordinance and allow any carrier to place their antennas on any tower, stating that Verizon Wireless will not allow other carriers to use its towers. **Justin Cosgrove** with Tower Engineer Professionals, representing American Tower Corporation, also requested a continuance from the board, asking for time to provide the propagation studies and adding that Verizon Wireless, T-Mobile and AT&T have all shown a "strong interest" in using the proposed tower. The commissioners questioned Cosgrove about moving the tower to a higher elevation, about providing camouflage, and about the number of towers already in place in this general area. **Gessica Melzer** told the board that, "I don't want to go out my driveway and see this monstrosity." Mr. Cosgrove told the board that with added time, his firm would do a study regarding the effect of the tower on the neighborhood, and again requested a continuance. Vice-Chairman Beale closed the public hearing at 7:12 p.m. Upon a motion by Commissioner Higdon, seconded by Commissioner Tate, the board voted unanimously to deny the application as presented, but to have it remain open.

**PUBLIC COMMENT:** Prior to opening the floor for public comment, Vice-Chairman Beale told the audience that there were "lots of folks" signed up to speak on the issue of fracking, and he reminded them that the comment period was "not a place for debate." **Betty Bennett** addressed the board regarding noise control in the county, saying that at her property on Matlock Creek, the noise and partying were so bad that she could not sleep at night. She said the county needs "some kind of noise control." Vice-Chairman Beale asked the County Attorney to address the issue, and he explained the complexities of regulating noise via an ordinance. Commissioner Haven told Mrs. Bennett that he sympathized with her and was "willing to look into something." **John Gladden** told the board that fracking is a dangerous activity, and focused the majority of his comments on water, both the supply and disposal of, as it relates to fracking. He concluded by stating, "As it stands, this is a poorly conceived law that authorizes deployment of a poor technology which is not protective of human health or the environment." **Larry Stenger** spoke to the impact of fracking on property rights, and voiced his displeasure with a state law that overrides local ordinances. He said the "rush to frack" was "morally wrong." **Susan Ervin** noted that several communities such as Franklin had passed resolutions opposing fracking, adding that the legislature had severely limited the power of local government. She asked the board members to "inform yourself" and to consider the impacts of fracking and a resolution in

opposition to it, adding that it “will be an election issue.” **Jeanne Webster** stated that she was in opposition to fracking, adding, “I’m frightened.” She asked the board to “protect us from what Raleigh’s doing. We need your protection.” **Belinda Childs** asked the board to ponder the benefits of fracking for the area if the water and air are polluted. **Gail Chapman** said that she is in favor of fracking, saying that “we’ve had fracking in North Carolina for many years.” **Don Swanson**, speaking to the issue of economic development, said that in his analysis of the situation, the county has no railroads, no other major highways other than US 441, and doesn’t have a good airport, but that the county is putting its hope in being a “softball tournament capital.” He said the Dakotas, Pennsylvania and Texas are booming as a direct result of fracking, and that opposition to it is “looking to take us back to the Stone Age.” **Sonja Thompson** said that while she has “no deep knowledge” of the issue, she supports safe hydraulic fracking for several reasons, adding that it is heavily regulated. **John Hagdorn**, in referring to a movie called “Gasland,” said that “if only 10 percent of what they say is true” about fracking, why would you invite this into your community. **Bill McLarney** offered three comments, starting with water being an increasingly large issue and concerns over anything that would endanger the supply. Secondly, he said he was gratified that, in regard to the hearings on the telecommunication towers, the ordinance and the speakers addressed the beauty of the mountains and the quality of life. Thirdly, he thought it was strange that supporters of private property rights and who also oppose government spending would support fracking, and he asked the board to make a “statement of consciousness” in regard to it. **Kent Busing**, who described himself as an engineer by background, asked to see evidence of poisoning caused by fracking, stating that he had “never seen any evidence of wells ruined by fracking,” calling it “a bunch of baloney.” **Vic Drummond** told the board he was in support of safe, clean fracking in North Carolina and that debate on the issue had “left the realm of reason” and had become an effort to “scare the public.” He presented the board with a two-page handout entitled “Fracking Frequently Asked Questions” and then asked the Republican majority on the board to adopt a resolution in support of fracking. **Vicki Barnard** said she was there to speak up for friends, neighbors and children whose “voices don’t get heard,” and stated that she felt there was no safe way to frack. **Hal Chapman** quoted a state environmental official who said that fracking does not present a danger if sound engineering principles are used, and provided other examples of comments from such officials supporting the practice. In closing the public comment period, Vice-Chairman Beale said that this was the strongest mandate to come from Raleigh that restricts the county’s input on anything.

**2014 SMALL HEALTH DEPARTMENT OF THE YEAR AWARD:** Vice-Chairman Beale noted that this is “a very special night for our health department,” and presented Macon County Public Health Center Director Jim

Bruckner and members of his staff with the National Association of County and City Health Officials (NACCHO) Small Health Department of the Year Award for 2014. Macon County was recently honored with the award at the NACCHO annual conference in Atlanta. The award recognizes and honors one local health department from a small, medium and large jurisdiction for innovation, creativity and impact on their community. Macon County Public Health was selected for its efforts toward establishing a county ordinance limiting the use of tobacco products at county parks and recreation facilities.

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

- To move a PowerPoint presentation by Dr. Brian Burke of the Coweeta Listening Project from the Public Comment Period to Item 8F under Reports/Presentations, per Vice-Chairman Beale.

**NCACC LIABILITY AND PROPERTY POOL'S 2013 SAFETY AWARD:** Charlie Eaton, the property and casualty program specialist with the North Carolina Association of County Commissioners (NCACC), presented two awards to Macon County. The first was for being a "super member" of both of the NCACC's Liability & Property and Workers Compensation insurance pools for five or more consecutive years. The second was in recognition of the county winning the NCACC Liability & Property Pool's 2013 Safety Award for having the lowest number of automobile claims per 100 vehicles in a large county.

**RECOGNITION OF HABITAT FOR HUMANITY:** Vice-Chairman Beale recognized Rick Westerman and the crew from Macon County/Jackson County Habitat for Humanity, explaining that because of the efforts of the organization, there were families in both counties "that have a roof over their head tonight." The vice-chairman presented Mr. Westerman with some small gifts of appreciation on behalf of the board. Mr. Westerman noted that Habitat also helps non-profit organizations as well in an effort to "try to give back to everybody." He also acknowledged Habitat's working relationship with the Macon County Housing Department.

**HISTORIC PRESERVATION WEEK IN MACON COUNTY:** Barbara McRae requested that the board declare the week of October 4-10, 2014 as Historic Preservation Week in Macon County. Upon a motion by Commissioner Tate, seconded by Commissioner Higdon, the board voted unanimously to approve a proclamation which reads as follows: "We, the Commissioners of Macon County, NC, wishing to celebrate the historic places of our beautiful mountains, honor those who have dutifully tended them, and encourage the

preservation of the county's rich history, do hereby declare the week of October 4-10, 2014, Historic Preservation Week in Macon County."

**REGION A UPDATE:** Ryan Sherby, the executive director of the Southwestern Commission (also known as Region A), gave the board an update on the organization's activities. He explained that Region A uses \$150,000 from the local governments of the six westernmost counties to leverage some \$6.8 million a year in grant funds. Region A also has a revolving loan fund that helps small businesses that cannot obtain conventional bank funding. He then touched briefly on each of the organization's major areas of focus, including Workforce Development and the Area Agency on Aging. Mr. Sherby said the agency is demand driven, and told the board members, "You own the organization," which he described as a regional shared resource. In closing, he pointed out that Chairman Corbin will become the chairman of the Southwestern Commission at its board meeting in September.

Vice-Chairman Beale declared a recess at 8:43 p.m.

Vice-Chairman Beale called the meeting back to order at 8:57 p.m.

**PURCHASE OF ELECTRONIC HEALTH RECORD** – Macon County Public Health Center Director Jim Bruckner introduced Diane Keener, the department's coordinator of health information, who outlined the process that health center staff had used to research and evaluate the planned purchase of a federally mandated Electronic Health Record (EHR). She explained that if Macon does not utilize the EHR, it cannot bill for Medicare or Medicaid. An EHR developed by Patagonia is the department's recommended choice, she said, adding that it best fits the county's needs and the reporting requirements of the state. There is a one-time fee of \$29,050, plus annual maintenance of \$13,200 for a first-year cost of \$42,250, with the five-year cost of the program estimated at \$101,092. Andy Muncy, the county's Information Technology Director, agreed that Patagonia was the best choice for Macon County. Mr. Bruckner told the board that he wanted to "inform you of what we're purchasing," as the presentation was for information only and no vote of the commission was required.

**PRESENTATION ON HYDRAULIC FRACTURING:** Dr. Brian Burke and Dr. Jennifer Rice with the Coweeta Listening Project presented a PowerPoint presentation on "Hydraulic Fracturing in North Carolina: An Overview." Dr. Burke provided some information on the mission of the Coweeta Listening Project, a group of university-based researchers whose purpose is to be a resource for local decision-making in southwestern North Carolina on environmental issues, noting that the group was strictly non-partisan. He then provided a description of how fracking works, and then outlined the current

regulatory context that will allow natural gas exploration and production to occur in the near future in the state. The proponents of fracking stress four main benefits; a domestically produced source of energy, jobs, natural gas as a cleaner burning fuel than other fossil fuels, and that natural gas often costs less. He then outlined the possible negative environmental impacts from fracking, including issues related to water quantity, water contamination, public health and air pollution. There are other social and economic issues for the county to consider, including community impacts from drilling sites, economic impacts on other industries such as tourism, a list of property rights issues, government control (including the inability of local governments to pass regulations), and finally, accidents, failing wells, and what happens to wells that stop producing and are abandoned. Following the presentation, Commissioner Higdon said that there are “a lot of scare tactics to this” and challenged the members of the board to educate themselves on the issue, stating that he is a “pro-fracking guy.”

**FOX RIDGE PROJECT REVIEW FEE:** Doug Johnson with Macon County Soil and Water Conservation requested that the board reappropriate \$2,000 to cover the cost of a project fee, payable to Duke Energy, for the company to review the application for a project aimed at stabilizing the banks of the Cullasaja River at the Fox Ridge property owned by the county. Mr. Johnson explained that the board had initially appropriated the money for the fee in November of 2012, but when the funds were not used during the 2012-13 Fiscal Year, the allocation expired. He requested that the board reinstate the funding, as half of the \$4,000 review fee is “non-reimbursable” and therefore cannot be covered by grant funds. Upon a motion by Commissioner Tate, seconded by Commissioner Higdon, the board voted unanimously to allocate \$2,000 from contingency to pay the fee.

**REVISED LEASE FOR WATERWHEEL MANUFACTURING, INC:** The County Attorney explained that there were two issues involving the initial lease agreement with Waterwheel Manufacturing, Inc. for space in the Business Development Center, which was approved by the board at its July 8, 2014 regular meeting. He said the company had requested a start date of September 15, 2014 for the lease instead of September 1, and that, in recognition that it will use more water than other tenants in the center, has agreed to pay for its portion of the monthly water bill. Upon a motion by Commissioner Tate, seconded by Commissioner Haven, the board voted unanimously to approve a “Resolution of the Macon County Board of County Commissioners Declaring Property to be Surplus and Approving a One Year Lease of the Same by Macon County to Waterwheel Manufacturing, Inc.,” along with a “Lease to Waterwheel Manufacturing, Inc., a North Carolina Business Corporation, from Macon County.” The resolution (Attachment 5) and lease (Attachment 6) are attached and are hereby made a part of these minutes.

**LEASE WITH HARMONY HOUSE FOODS, INC:** The County Attorney explained that he had prepared a document renewing the lease with Harmony House Foods, Inc. for space in the Business Development Center for one more year under the same terms and conditions currently in place. Upon a motion by Commissioner Haven, seconded by Commissioner Tate, the board voted unanimously to approve a “Resolution of the Macon County Board of County Commissioners Declaring Property to be Surplus and Approving a One Year Lease of the Same by Macon County to Harmony House Foods, Inc.,” along with a “Lease to Harmony House Foods, Inc., a North Carolina Business Corporation, from Macon County.” The resolution (Attachment 7) and lease (Attachment 8) are attached and are hereby made a part of these minutes.

**INTERLOCAL AGREEMENT FOR RECREATION WITH THE TOWN OF HIGHLANDS:** The County Manager told the board that the proposed interlocal agreement formalizes county support in the amount of \$500,000 for recreational services and programs and the maintenance of certain recreational facilities in the Town of Highlands and surrounding areas as budgeted for Fiscal Year 2014-15. Upon a motion by Commissioner Tate, seconded by Commissioner Haven, the board voted unanimously to approve the interlocal agreement as presented, a copy of which is attached (Attachment 9) and is hereby made a part of these minutes.

**ENDORSEMENT OF “SIT FOR 60, MOVE FOR 3” PROGRAM:** Mike Decker, the county’s Human Resources Director, asked the board to endorse a program entitled “Sit For 60, Move For 3,” which would allow and encourage county employees who sit for 60 minutes to get up and move for at least three minutes, as research has shown that sitting for long periods of time can increase the risk for diabetes, heart disease, osteoporosis, high blood pressure and obesity. He requested the board’s approval to make the program a part of the county’s overall wellness program, given the greater emphasis on such programs under the federal Affordable Care Act. Upon a motion by Commissioner Higdon, seconded by Commissioner Tate, the board voted unanimously to endorse the program as presented.

**LEASE AGREEMENTS FOR THE COMMUNITY CARE CLINICS IN FRANKLIN AND HIGHLANDS:** The County Attorney told the board that he had prepared lease agreements for the two community care clinics, one in Franklin and one in Highlands, under the same terms and conditions as the current agreements. Upon a motion by Commissioner Higdon, seconded by Commissioner Haven, the board approved the following documents as presented: (A) Resolution of the Macon County Board of County Commissioners Declaring Property to be Surplus and Approving a One Year Lease of the Same by Macon County to Community Care Clinic of Franklin, Inc., a North Carolina non-profit

corporation. A copy of the resolution is attached (Attachment 10) and is hereby made a part of these minutes. (B) A lease agreement with the Community Care Clinic of Franklin, Inc., a copy of which is attached (Attachment 11) and is hereby made a part of these minutes. (C) Resolution of the Macon County Board of County Commissioners Declaring Property to be Surplus and Approving a One Year Lease of the Same by Macon County to Community Care Clinic of Highlands-Cashiers, Inc., a North Carolina non-profit corporation. A copy of the resolution is attached (Attachment 12) and is hereby made a part of these minutes. (D) A lease agreement with the Community Care Clinic of Highlands-Cashiers, Inc., a copy of which is attached (Attachment 13) and is hereby made a part of these minutes.

**AGREEMENT TO PROVIDE RECREATION OPPORTUNITIES WITH THE SCALY MOUNTAIN HISTORICAL SOCIETY, INC.:** The County Attorney explained that it was time to renew the agreement with the Scaly Mountain Historical Society to provide opportunities for recreation in the Scaly Mountain community, specifically at the Old Scaly School House located at 41 Buck Knob Road. In the agreement, the county agrees to pay the historical society \$5,000 for Fiscal Year 2014-15. Upon a motion by Commissioner Tate, seconded by Commissioner Higdon, the board voted unanimously to approve the “Agreement to Provide Recreation Opportunities” as presented, a copy of which is attached (Attachment 14) and is hereby made a part of these minutes.

**CONSENT AGENDA:** Following a request by Commissioner Higdon, the board agreed to remove Tax Releases from the consent agenda. Upon a motion by Commissioner Tate, seconded by Commissioner Haven, the following items on the consent agenda were unanimously approved: **Minutes** – Approved the minutes from the July 8 and July 24, 2014 meetings. **Budget amendments** – Approved the following budget amendment: #16 for the Department of Social Services to transfer \$48,290 in federal adoption funds; #17 for the Health Department to roll \$7,719 in unexpended grant money to the current fiscal year; #18 for Soil and Water Conservation to appropriate a \$6,301 fund balance for carryover funds from Fiscal Year 2013-14 and \$373 from TVA Ag & Forestry grant funds for a total of \$6,674 for the purchase of a storage building; #19 for the Housing Department to appropriate new SFRLP-14 grant amounts with revenues totaling \$170,000; #20 for Soil and Water Conservation to appropriate \$2,500 in revenue from the sale of fixed assets for the trade-in amount on a truck and the transfer of \$497 from Donations/Gifts for a total increase of \$2,297 to Equipment—Vehicles for the purchase of a new truck. (Revisions with corresponding numbers attached) **Settlement report for Fiscal Year 2013-14 taxes:** Approved a report from Tax Collector Margaret Perry showing a 97.14 percent collection rate for general and motor vehicle taxes for the previous fiscal year. **Monthly ad valorem tax collection report** – No action necessary. **Resolution honoring the 100<sup>th</sup> anniversary of Holly**

**Springs Baptist Church:** Approved the resolution as presented, a copy of which is attached.

**TAX RELEASES:** Commissioner Higdon sought additional information on the tax releases, totaling \$35,839.51, and with no answers readily available, the board agreed to table the matter and to ask Tax Administrator Richard Lightner to attend the board's continued session on August 26<sup>th</sup> to address the releases.

**APPOINTMENTS: (1) Highlands Tourism Development Commission –** Upon a motion by Commissioner Tate, seconded by Commissioner Haven, the board voted unanimously to ratify the e-mail poll of the board taken July 10, 2014 appointing Rick Siegel as the Town of Highlands representative on the Highlands Tourism Development Commission (TDC) and to reappoint Wolfgang Green as the at-large representative to the TDC. Terms of appointment are for three years. **(2) Smoky Mountain LME/MCO County Commissioner Advisory Council –** Upon a motion by Commissioner Tate, seconded by Commissioner Haven, the board voted unanimously to appoint Vice-Chairman Beale as the county's representative on the Smoky Mountain LME/MCO County Commissioner Advisory Council, and he was willing to serve.

**CLOSED SESSION:** At 9:52 p.m., upon a motion by Commissioner Tate, seconded by Commissioner Haven, the board voted unanimously to go into closed session for the purpose of consulting with the attorney under NCGS 143-318.11(a)(3). At 10:15 p.m., upon a motion by Commissioner Higdon, seconded by Commissioner Tate, the board voted unanimously to come out of closed session and return to open session. No action was taken.

**RECESS:** AT 10:16 p.m., upon a motion by Commissioner Tate, seconded by Commissioner Haven, the board voted unanimously to recess the meeting until Tuesday, August 26, 2014 at 6 p.m. in the commission boardroom on the third floor of the Macon County Courthouse, 5 West Main Street, Franklin, NC.

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Derek Roland  
Ex Officio Clerk to the Board

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Kevin Corbin  
Board Chairman