

MACON COUNTY BOARD OF COMMISSIONERS
NOVEMBER 18, 2002
CONTINUATION MEETING
MINUTES

Chairman Corbin reconvened the meeting at 9 a.m. as recessed. All Board Members including commissioners-elect Shepherd and Simpson, the County Manager, County Attorney, Deputy Clerk, members of the news media and interested citizens were present. The Chairman stated as this was a continuation meeting there was no public session but he was going to allow Mr. Don Mader to address the Board and later in the meeting an item dealing with location of the Nativity scene would be considered for addition to the agenda and, if added, a public session would be held.

Don Mader stated he just wanted to commend the Board for all their work with the pressure they are under. Mr. Mader's comments received a standing ovation.

SMOKY MOUNTAIN CENTER PROPOSAL: Mr. Joe Ferrea, Co-Director of Smoky Mountain Center, presented a proposal for use of the New Bridge Facility for a regional Level IV program. Mr. Ferrea noted there is no Level IV facility in the region and \$200,000 is available to locate such a center within the seven county region. He explained the facility would require some renovation expanding it from a six bed to eight-bed facility, painting, cleaning, etc. Mr. Ferrea requested consideration of leasing the facility to Smoky Mountain Center for a nominal fee, i.e. one-dollar per year for five years with a five-year renewal clause. The County Attorney advised the State of North Carolina had not deeded the property back to the County under the reversionary restrictions of the deed and the County could not legally enter into an agreement for use of the property until that deed is received. Commissioner Greene noted if Smoky was making this request it had been studied and they would have developed a workable plan and therefore made a motion that the County enter into a lease agreement as requested with Smoky Mountain Center pending receipt of the deed from the State, to instruct the County Attorney to proceed with clarifying the County position and again request the deed. The motion was seconded by Commissioner Leatherman and all favored.

HEALTH DEPARTMENT: Health Director Ken Ring and Environmental Health Supervisor Pat Muse explained a law was passed in September allowing health departments to levy fees for review of swimming pool and restaurant plans. Mr. Ring recommended \$100 per unit for swimming pool or spa plans noting this does not include private pools serving a single-family residence, therapeutic pools operated by medical facilities or licensed physical therapist and \$100 for restaurants with up to twenty-five seats and \$200 for anything over twenty-five. Mr. Ring noted franchised plans or chain facilities are not included in this review plan since their plans are reviewed by the state. After a lengthy discussion Commissioner Greene made a motion to authorize the \$100 fee for swimming pool and spa plans as presented. The motion was seconded by Commissioner West and passed four to one with Commissioner Bryson opposing who stated he felt staff is already providing this service and to add the fee, paperwork, etc. would not be beneficial. Commissioner Greene made a motion to approve the fee schedule for restaurant plans as presented. The motion was seconded by Commissioner Leatherman but after further discussion concerning state fees the motion was withdrawn pending further information and tabled until the December meeting.

SCHOOL FINANCING: A briefing on public school finance was postponed due to the illness of the county finance officer.

OFFER TO PURCHASE 17.72 ACRES: The County Attorney presented an offer to purchase and contract between Nikwasi Foundation, Inc. and the County for 17.72 acres east of the Franklin town limits which will be instrumental in connection with purposes related to the Greenway project and for preservation and restoration of the Little Tennessee River and river basin. Mr. Jones stated the property had been appraised by Guy Duvall for \$253,800 and that was the purchase price being offered. It was noted Clean Water Management Trust Funds would be used to purchase the property. Commissioner West requested permission to abstain due to a possibility of a conflict of interest. Upon a motion by Commissioner Greene and seconded by Commissioner Bryson the Board unanimously voted to grant permission for Commissioner West to abstain. Commissioner Bryson made a motion to approve the contract and offer per attachment #1 and authorize execution of the necessary documents. The motion was seconded by Commissioner Leatherman and carried 4-0.

COMMISSIONERS-ELECT: Chairman Corbin introduced commissioners-elect Jay

Dee Shepherd and Bob Simpson who both expressed appreciation for support in the recent election and stated they looked forward to serving on the Board.

NATIVITY SCENE: Chairman Corbin stated the location of the nativity scene on county property needed to be added to the agenda. Upon a motion by Commissioner Bryson and seconded by Commissioner Leatherman the Board unanimously voted to add the item to the agenda. Commissioner Leatherman made a motion to open the floor for public discussion on this item. The motion was seconded by Commissioner West and all favored. Pam Goldsmith stated she felt it would be a mistake to move the nativity scene from the courthouse property adding if it is moved that will represent giving up another right to religious belief. She requested that the scene be left at the courthouse within the limits of the law with other seasonal items if necessary. Louise Henry questioned how you take Christ out of Christmas, how you separate Christ from Christmas and stated if Christmas stopped it would kill the economy. Ms. Henry suggested allowing any religious group to put anything on the square along with the nativity scene and offered to find attorneys to donate time to fight the ACLU and to have bake sales, etc.

The County Attorney gave a brief history of the location of the nativity scene stating several years ago the county had received a complaint from an unnamed citizen complaining the county had a purely religious scene at the courthouse. Mr. Jones added the County did not do anything and later received a letter from the ACLU after which the county did add some reindeer, Christmas trees, etc. which continued for six or seven years but last year these items were not added and another letter was received from the ACLU. He stated this year the ACLU wrote a letter earlier in the season and his recommendation was to take steps to prevent a law suit because he felt the county might possibly be set up as a test case that we could not win.

Gail Chapman with the Streets of Franklin stated she had gotten a call to meet with the County Manager to discuss alternative sites for the nativity scene. She stated the Streets did not object to leaving the scene at the Courthouse but would get involved with enlarging and expanding it if relocated.

Stephanie McGaha stated if the nativity scene is moved from the seat of county government then we are silently saying our government is here but the basis of government is down the street. She asked that the scene be kept at the seat of government because it says so much. Commissioner Greene gave a brief history on how the money was raised for purchase of the nativity scene, the Streets of Franklin involvement with the scene and stated the purpose of government is still freedom of religion that doesn't favor one over another.

Chairman Corbin stated he opposed giving one more inch to the ACLU.

Orville Anderson stated he had lived here since 1986 and the crèche on the courthouse square is very special to him. He stated he hated having to give in to the ACLU and suggested that the scene be left on the square at least this year.

Dana Sanders stated she grew up in Franklin, that the group present did know the law and was not present for any confrontation but wants their freedom of religion displayed on the courthouse square. Ms. Sanders stated down town Franklin has evolved into a beautiful area and asked that the nativity be left at the courthouse with other scenes of the season. Commissioner-elect Bob Simpson stated he was not in favor of moving the scene and questioned if it could not be enlarged where it is.

Being no further comments, Commissioner Greene made a motion to allow the nativity scene on county property if the Streets of Franklin so chooses with the understanding non-religious items would have to be included to insure compliance with the law.

The motion was seconded by Commissioner Bryson and all favored.

Before the vote Commissioner Leatherman stressed to those in attendance that it was never the intent not to erect the nativity but to create an unadulterated scene.

ADJOURNMENT: Being no further business the meeting was adjourned upon a motion by Commissioner Leatherman.

Sam K. Greenwood, County Manager
Ex Officio Clerk to the Board

Harold P. Corbin
Board Chairman