

MACON COUNTY BOARD OF COMMISSIONERS
FEBRUARY 13, 2018
MINUTES

NOTE: At 5:55 p.m., due to the number of people attending the meeting, Chairman Tate announced that the board would call its meeting to order in the boardroom at 6 p.m., then immediately recess and move the meeting to Courtroom A on the fourth floor of the Macon County Courthouse.

Chairman Tate called the meeting to order at 6:00 p.m. All Board Members, the County Manager, Deputy Clerk, Finance Director, County Attorney and members of the news media were present. Chairman Tate called for a recess in order for the board members and staff to move to Courtroom A on the fourth floor of the Macon County Courthouse to accommodate the large crowd attending the meeting.

Chairman Tate reconvened the meeting at 6:10 p.m. in Courtroom A. He announced that two sign-up sheets were available, one for the public comment period and the other for the public hearing on the proposed amendments to the Animal Control Ordinance. He noted that many of those in the audience were here due to either the county's grading license program or the proposed new "burn building" for the Southwestern Community College Public Safety Training Center. He explained that the board may elect to move its meeting back to the boardroom at a later time, as Courtroom A has no video streaming/recording capabilities.

ANNOUNCEMENTS: (A) Presentation of the Edward B. Busse Award: Mary Edwards with the North Carolina Division of Aging and Adult Services (DAAS) presented the "Edward D. Busse Award" to Macon County Emergency Services in recognition of its Community Paramedicine Program. She explained that the award was established to recognize an individual or organization that has had a significant impact on enhancing the health status of older North Carolinians through efforts to direct health-related policies and/or provide leadership in developing innovative solutions to health care problems. In presenting the award to Joey Gibson and Todd Doster with Macon County EMS, she said that the Community Paramedicine Program started as a way of bringing healthcare to people's homes. The program now includes 60 patients and paramedics make weekly home visits, perform blood draws, manage

medications, give flu shots and provide other procedures. Because of the program, there has been a reduction in hospital readmissions, a reduction in 911 response to high utilizers of the service, improved quality of life for recipients and reduced transport for participants for both medical and behavioral health related issues. Ms. Edwards referred to the program as “a shining example” for other emergency medical services across the state. **(B)** Commissioner Beale explained that “a native son is coming home from Pearl Harbor.” He said that after missing for 76 years, Frank Wood would be laid to rest at Carson Cemetery on April 19th, and this would be an opportunity to “recognize a veteran who gave all.” **(C)** Commissioner Beale also reported on a letter to the board members from John Lemley of Franklin, a retired chief warrant officer with the U.S. Navy Civil Engineer Corps. It was a letter of appreciation for Leigh Tabor and Christie Black at the county’s Veterans Service office, a copy of which is attached **(Attachment 1)** and is hereby made a part of these minutes. In his letter, Mr. Lemley wrote in part, “In my 35 years of working with government agencies, this Veterans Service office is the most professionally managed of any I have dealt with. They are always friendly, helpful and go that extra mile to help the veteran. I just wish that every office was this pleasant and professional.” He specifically asked that the board recognize them in a public forum. **(D)** Chairman Tate pointed out that an update on the proposed amendments to the Sedimentation and Soil Erosion Control Ordinance had been scheduled for this portion of the agenda, but that he was going to take “a point of privilege” and move that down on the agenda.

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 ANIMAL CONTROL ORDINANCE: Chairman Tate called the public hearing to order at 6:23 p.m. and recognized Macon County Public Health Director Jim Bruckner, who provided a brief overview of the proposed amendments to the Animal Control Ordinance. He noted that most of the changes were “cosmetic,” such as amended definitions and adding language about the lead animal control officer. He also pointed out that the members of the county’s Board of Health were unanimous in their support of the amendments. Chairman Tate then opened the floor for public comment. The first speaker was **Jim Gray**, who had questions about the definition of “scratch” versus “scrape,” and also raised a number of questions as to how the ordinance applies to hunting dogs. He told the board that the county might be setting itself up for some legal problems in regard to the language about hunting dogs being “under the control of the owner,” noting that such dogs are often far away from their

owners during hunts. He also requested that any committee formed under the provisions of the ordinance include representatives of hunting groups or organizations. Finally, he asked the board not to pass the amended ordinance tonight. **Brittany Beil, DVM** with Whiskey River Large Animal Mobile Veterinary Services, also questioned some the ordinance's definitions, saying that she gets lots of concerned citizens calling about large animal cases. She asked if there is a set guideline in terms of the animal's welfare. "Is an animal cared for or not?" she asked, adding that if there is further discussion on this topic, she would like to be involved. This led to interaction between Dr. Biel and Mr. Bruckner with regard to the investigation and reporting of such incidents, with Mr. Bruckner stating, "We investigate every complaint" and that the reports are public record. Mr. Bruckner also pointed out that several animal-related associations were represented during the drafting of the ordinance back in 2008. No one else signed up to speak. Commissioner Gillespie requested that some e-mails he received on the matter be entered into the record, and those are attached **(Attachments 2 and 3)** and are hereby made a part of these minutes. Commissioner Beale recommended tabling any action on the ordinance and to send it back to the Board of Health for further review. Chairman Tate closed the public hearing at 6:39 p.m. Upon a motion by Commissioner Beale, seconded by Commissioner Gillespie, the board voted unanimously to table action on the proposed amendments and return the document to the Board of Health.

PUBLIC COMMENT PERIOD: Chairman Tate said that most of those who signed up to speak during the public comment session wanted to discuss the grading/erosion issue. He said the board conducted a public hearing at its January meeting and held a discussion on the topic at that time, adding that the members are "still conversing, still talking." He said the County Manager took all of the information from all sources and "dug a little bit deeper," and Chairman Tate called upon him for a report. The County Manager said the comments essentially broke down into three categories – (1) penalties and enforcement, (2) the need for clarification and (3) any potential overlap. He explained that the intent of the process was to incorporate a current procedure, the county grading license requirement, into the sedimentation and erosion control ordinance. He then addressed a number of issues, such as the idea that the county was looking to make the grading license and permit process a revenue generator for the county, when in fact the average annual revenue from that is about \$1,000 a year. He also addressed the issue of the discretion in administering the ordinance held by Jack Morgan, the county's Director of Planning, Permitting and Development. He noted that Mr. Morgan has administered the ordinance for 10 years, and no one has come to the commissioners out of "onerous application" of the standards by the administrator. In discussing property rights, he noted that the county must abide by the 1973 state act. For example, he said many comments focused on

the need for clarification, such as what is a “land disturbing activity.” But he explained that the definitions and terms such as that one are taken from the state law – and that the state is in the process of looking to revise its rules. The state will be going through “an intensive public comment period all this summer,” he said, with new rules set to become effective on January 1, 2019. In conclusion, he thanked the county planning board for its work and told the audience that the “comments did not fall on deaf ears.” The first speaker in the public comment period was **Howell Jacobs**, a Nantahala resident who told the board members, “Thanks for coming over and addressing some of our problems.” He also asked for an increased law enforcement presence in the community. **Dorie Leland** addressed the erosion control issue, telling the board that the “net effect is one of heavy handed force,” and is “not a good way to govern anybody.” She said that if education on a matter was ever called for, now is the time. **Vance Wall**, a resident of Roller Mill Road, spoke to an experience with a land use matter where he said promised buffers were never put in place. He said that has led to a trust issue where “I want it in writing that it won’t affect me.” **Steve Koster** told the board he was in favor of the ordinance and the grading license requirement. He said that most property owners want to do the right thing, but “don’t know what the right thing is,” adding that education for the homeowner is important. He suggested that the board stick to the state’s standards. **Jim Eliason** began by pointing out that more than half of the audience was here due to the land disturbance issue. He asked if there was a “completed document” for the public to review, and said he wasn’t hearing a plan to drop the affidavit requirement. Chairman Tate responded that “no one is interested in keeping that provision.” Mr. Eliason also questioned some of the definitions and standards of the ordinance, as well as its intent. He said an education program would be much more beneficial, and asked if the board members realize this is a “terribly unpopular amendment” that “won’t do anything to stop the problem.” He said that 1,070 people had signed an online petition at a site called “Macon Issues” wanting the commissioners to scrap this, along with 250 more on a paper petition, plus 145 more that came from the Nantahala area. He said time could be better spent than continuing to focus on an amendment that nobody wants. **David Culpepper** questioned the length of time it takes to get a permit approved, and said that if graders view the license as being valuable, then do this as a voluntary program. He also suggested reducing a homeowner’s property tax by \$100 to \$200 a year and use the money to have Southwestern Community College hold courses on soil erosion and sedimentation. **Ron Haven** told the board members to listen to what the people say and look at this issue from the standpoint of the majority of the people. **Donald Herring** said his question is, “The biggest thing I would like to know is what I can do and what I can’t and whether it is against the law.” He also questioned if the ordinance was “broke,” and if it wasn’t, why there is a need to change it.

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

- To move Item 11C under New Business (Vocational Building heating project at Franklin High School) to the first item under Reports/Presentations, per Commissioner Shields, with Chairman Tate noting that all existing items under this heading would move down accordingly.
- To add consideration of a contract with Novus Architects as the new Item 11D under New Business, per the County Attorney.

COLD FOR A CAUSE: Commissioner Beale recognized Wenona Curtis, a bus driver for Macon County Schools, and Patrick Jenkins, an insurance agent with North Carolina Farm Bureau Insurance. Commissioner Beale pointed out that it was Bus Driver Appreciation Week and noted that Ms. Curtis has driven a bus for some 40 years. He told of a very cold January morning when one of the students getting on Ms. Curtis' bus did not have a coat, which prompted her to contact Mr. Jenkins, who annually does a "Cold for a Cause" event in which he collects many coats and blankets as well as food for those in need. Mr. Jenkins told Ms. Curtis where she could get the child a coat, and she did so. On behalf of the board members and the county's residents, Commissioner Beale presented both Ms. Curtis and Mr. Jenkins with a replica of the county flag, and invited each of them to make a few comments.

FRANKLIN HIGH SCHOOL VOCATIONAL BUILDING HEATING PROJECT: Macon County Schools Superintendent Dr. Chris Baldwin first thanked the board for recognizing the system's school bus drivers, then explained that the heating system in the vocational building at Franklin High School had broken down. He said the more cost effective option was to abandon the current system and convert to a gas system at a cost of \$17,650, which was his recommendation. Commissioner Beale, as one of the board's two liaisons to the school system, said this matter falls under the county's obligation and made a motion to approve Dr. Baldwin's recommendation, with the money to come from the county's contingency fund. Commissioner Shields seconded the motion, and following additional discussion, the board voted unanimously to approve the motion.

UPDATE ON VAYA HEALTH: Shelly Foreman with Vaya Health gave the board an update on the ongoing issue of Medicaid reform. She serves in community relations for Vaya, a managed care organization (MCO) based in Asheville, NC that manages public funds for mental health, substance abuse disorder and intellectual or developmental disability services in 23 counties in western North Carolina. She addressed a number of topics, beginning with the opioid epidemic and then transferring to the Medicaid transformation and

Vaya's plans and efforts in that area. Commissioner Beale, who serves on the Vaya board, said that Medicaid reform will happen in the next 18 months, and will have an effect on the county's emergency and social services. He also spoke to the number of legal opioids prescribed across the state and in the region, but in conclusion, pointed out that Medicaid is still the largest amount of money that comes into Macon County. No action was necessary.

FRIENDS OF THE LIBRARY REQUEST: Upon a motion by Commissioner Shields, seconded by Commissioner Beale, the board voted unanimously to approve a request by the Friends of the Library group to place a "little library" at the county's Parker Meadows Recreation Complex.

SOUTHWESTERN COMMUNITY COLLEGE FIRE SAFETY TRAINING COMPLEX: Curtis Dowdle with the Southwestern Community College (SCC) Public Safety Training Center handed out a document entitled "SCC Multi-Story Containment Structure," which addresses a number of issues regarding the new "burn building" in a question-and-answer format. A copy of that document is attached (Attachment 4) and is hereby made a part of these minutes. Josh Randall, the chairman of the Macon County Fire Commission, then spoke in support of the new facility and requested the local funds to make it a reality. He said that on behalf of the 375 volunteer and paid firefighters in the county, "real life training is the best way to prepare." Commissioner Beale questioned how the county will pay for its portion of the new building, which led to a lengthy discussion. Commissioner Gillespie handed out copies of a document entitled "North Carolina Community College System Capital Improvement Project Approval." It outlines how the new \$2,712,605 Fire Rescue Training Center will be funded using \$1,400,000 from the NC Connect Bond and \$1,312,605 from an appropriation from Macon County. A copy of that document is attached (Attachment 5) and is hereby made a part of these minutes. Commissioner Higdon said this is nearly a one-to-one match instead of the three-to-one match initially proposed. The Finance Director questioned the additional \$69,991 in estimated operating and utility annual costs, and asked if the document also binds the county to this amount as well as the much larger one, and the response was "yes." Commissioner Gillespie made a motion to approve the document as presented, and Commissioner Shields seconded the motion. In the discussion that followed, Commissioner Higdon voiced his belief that such large expenses needed to be worked into the annual budget and said the county "can't go on a spending spree." Chairman Tate responded that the board's hands were essentially tied on this matter and all involved had been working on this for two years. Commissioner Beale said if the board decides to "kick the can down the road" it will cost more. Commissioner Shields pointed to the engineers' assessment of the current burn building, noting it is a hazard and that if someone gets hurt, they will be looking for more than \$1-million. The board then voted unanimously to

approve the document as presented. At this point, the Finance Director noted that the document states that the county's funds are "available." Therefore, upon a motion by Commissioner Gillespie, seconded by Commissioner Shields, the board voted unanimously to appropriate \$1,312,605 from the county's general fund fund balance for the county's share of the new facility.

DISCUSSION REGARDING PROPOSED AMENDMENTS TO SEDIMENTATION AND EROSION CONTROL ORDINANCE:

Chairman Tate started the discussion by noting that he was "personally perplexed by this issue" and that it has led to some sleepless nights for him. He noted that no one is in favor of passing it as presented, then listed five options he felt were available to the board. He then suggested the following steps: to keep the county's grading license program suspended until the county hears from the state as to changes in state regulations and to ask county staff to create educational materials on the topics of sedimentation, erosion control and grading and perhaps create a voluntary grading license program. Commissioner Higdon said the program is cumbersome and told the board, "Let's clean the slate" and remove it altogether. He made a motion to "suspend this thing completely," which died for lack of a second. Commissioner Beale stated that Commission Higdon was "right on a lot of things" but that Chairman Tate's suggestions were "well said" and that he supported the chair's recommendation. As "an arm of the state," Commissioner Beale said soil erosion enforcement must stay in place. Because the grading license is separate, he also wanted to keep it suspended for now. Commissioner Shields said that education is a component of anything, and without that, he could not support the amendments. Commissioner Gillespie said the commissioners need to focus on the outcome of the process, saying that the planning board did its job and brought back a better document to the commissioners. Commissioner Higdon made a motion to permanently abolish the proposed amendments to the soil erosion and sedimentation control ordinance, and the motion died for lack of a second. Commissioner Beale suggested sending the work back to the planning board. Commissioner Higdon remarked that the commissioners "need to take the heat on this." Following further discussion regarding the planning board, Chairman Tate made a motion to keep the grading license requirement suspended, to wait and see what changes the state made to the erosion control regulations, and to task the planning board with a review of educational materials that would promote good grading practices and certification. Commissioner Shields seconded the motion, and it was approved 4-1, with Commissioner Higdon opposing. In closing the comments on this item, Chairman Tate said there was "a whole lot of miscommunication on this issue."

DISCUSSION REGARDING METHOD OF ELECTING COMMISSIONERS:

Commissioner Higdon at first suggested tabling this item until next month, due to the length of the meeting. Commissioner Beale questioned why the board

was having this discussion. Commissioner Higdon said the board needed to review it as it had been in place since 1978. In noted that a candidate in District II can run every two years, but in District I and District III, they can run only every four years. He suggested having one or two “at-large” districts for the county. Chairman Tate said he raised the same issue when he was first elected and thought it was unfair. The County Attorney suggested that he could pull together the state statutes on this matter for the board’s information and it was agreed that the item would be discussed at the next regular meeting.

ARCHITECT AGREEMENT: The County Attorney told the board that he, the County Manager and the Finance Director had been working to finalize an agreement between the county and Novus Architects, Inc. of Asheville, NC for architectural services for the additions to South Macon Elementary School. Following further discussion, and upon a motion by Commissioner Shields, seconded by Commissioner Beale, the board voted unanimously to approve the agreement as presented, authorize the County Manager to execute it, and to approve a budget amendment appropriating \$167,322 for the architectural fees from the school capital project fund balance to the South Macon expansion project. A copy of the “Standard Form of Agreement Between Owner and Architect” is attached **(Attachment 6)** and is hereby made a part of these minutes.

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 January 9, 2018 regular meeting; the following budget amendments: **#110** to allocate \$3,345 from an insurance settlement for repairs to the Fire Marshal’s truck; **#111** to allocate \$3,674 from an insurance claim check for the Transit Department for vehicle repairs; **#112** to allocate \$197 for the Maintenance Department from an insurance reimbursement for damage to a curb that was repaired by department staff; and **#113** to appropriate \$14,350 in grant funds for the Transit Department that are in excess of the original budget amount (Copies of the amendments are attached); tax releases for the month of January in the amount of \$2,149.04; ordered the tax collector to advertise and collect 2017 delinquent taxes owed as of February 1, 2018 in the amount of \$1,640,690.56; approved Macon County Public Health fee changes and additions **(list attached)**; monthly ad valorem tax collections report (no action necessary).

APPOINTMENTS: (A) Board of Equalization and Review: Upon a motion by Commissioner Beale, seconded by Commissioner Shields, the board voted unanimously to appoint Dwight Vinson, Bill Martin, Donald Holland, Gary Drake and Kristine Flaig to the Board of Equalization and Review. All terms of appointment are for one year. **(B) Library Board:** Upon a motion by

Commissioner Higdon, seconded by Commissioner Gillespie, the board voted unanimously to appoint Edward Trask to the Macon County Public Library Board of Trustees. Term of appointment is for three years. **(C) Planning Board:** Upon a motion by Commissioner Gillespie, seconded by Commissioner Higdon, the board voted unanimously to appoint Carroll Poindexter and Glenn Hedden to the Macon County Planning Board. Terms of appointment are for three years each.

CLOSED SESSION: At the request of the County Attorney, a closed session for the purpose of preserving the attorney-client privilege under NCGS 143-318.11(a)(3) was needed. At 9:16 p.m., upon a motion by Commissioner Beale, seconded by Commissioner Shields, the board voted unanimously to recess the meeting in order to move back to the commission boardroom on the third floor of the courthouse. Once back in the boardroom at 9:24 p.m., upon a motion by Commissioner Shields, seconded by Commissioner Higdon, the board voted unanimously to go into closed session to preserve the attorney-client privilege. At 9:37 p.m., upon a motion by Commissioner Gillespie, seconded by Commissioner Higdon, the board voted unanimously to come out of closed session and return to open session.

SETTLEMENT REGARDING FORMER ELECTIONS DIRECTOR: The County Attorney explained the outcome of a case involving former Board of Elections Director Kim Bishop, who pled guilty to embezzling nearly \$68,000 from the county. The County Attorney explained that before the case was handled in federal court, the county had initiated a civil action against Ms. Bishop to recover the funds. The county was awarded a restitution judgment of \$68,705.06, the County Attorney said, but pointed out that the bad news was that it was payable at \$50 per month, which would take more than 114 years to pay off. So, the county submitted a claim to the North Carolina Association of County Commissioners (NCACC) Risk Management Pool, which in turn paid the county for its loss, minus a \$1,000 deductible. The County Attorney explained that the risk pool has worked out a consent judgment, which the county in turn needs to sign off on. Upon a motion by Commissioner Shields, seconded by Commissioner Gillespie, the board voted unanimously to authorize the County Manager and County Attorney to sign off on the consent judgment.

SENIOR SERVICES BUILDING RIGHT-OF-WAY AND UTILITY EASEMENTS: The County Attorney explained that the North Carolina Department of Transportation (NCDOT) had approached the county about a possible right-of-way and a permanent utility easement at the county's senior services center on Wayah Street. The "bottom line," he said, is that NCDOT is willing to pay the county \$313,750 and deed to the county the former Franklin Area Chamber of Commerce property in exchange for those easements. After explaining the

county's potential use of the property, which would include the addition of some much-needed parking spaces, the County Attorney recommended that the board accept the offer and make the deed for the right-of-way and permanent utility easement as presented by NCDOT in exchange for the money and the building, with the understanding that the county used and relied upon plans from NCDOT to make that determination. Upon a motion by Commissioner Beale, seconded by Commissioner Shields, the board voted unanimously to approve the County Attorney's recommendation as presented.

ADJOURN: With no other business, and at 9:44 p.m., upon a motion by Commissioner Beale, seconded by Commissioner Gillespie, the board voted unanimously to adjourn.

Derek Roland
Ex Officio Clerk to the Board

Jim Tate
Board Chairman