

**MITCHELL COUNTY BOARD OF COMMISSIONERS**

**MINUTES**

**REGULAR SESSION**

**SEPTEMBER 10, 2007**

**NORTH CAROLINA**

**MITCHELL COUNTY**

The Mitchell County Board of Commissioners met in regular session on September 10, 2007 at 5:30 p.m. in the Commissioner's Conference Room, Administration Building, Bakersville, NC. Those present for the meeting were Phil Byrd, Chairman; Lisa Sparks, Vice-Chairman; Mike Hensley, Member; Patrick Phillips, Member; Jim Saylor, Member; Phil Castro, Interim County Manager and Kathy Young, Clerk to the Board. Also present were Hal Harrison, County Attorney; Mavis Parsley, Finance Officer; and Donny Wisor, Reporter with the Mitchell News-Journal.

1. **CALL TO ORDER** – Chairman Byrd called the meeting to order at 5:30 p.m.
2. **INVOCATION** – Chairman Byrd gave the invocation.
3. **PLEDGE OF ALLEGIANCE**
4. **ADDITIONS OR CHANGED TO THE AGENDA**
5. **ADOPTION OF AGENDA** – Commissioner Sparks moved to adopt the agenda. Commissioner Phillips seconded the motion and it carried unanimously
6. **CHAIRMAN'S COMMENTS** – Chairman Byrd stated the meeting would move to the Courthouse after the Public Hearing.
7. **CLOSED SESSION** – Commissioner Hensley moved to enter into Closed Session in accordance with N.C. General Statute 143-318.11 (4) which reads as follows: To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, including agreement on a tentative list of economic development incentives that may be offered by the public body in negotiations. The action approving the signing of an economic development contract or commitment, or the action authorizing the payment of economic development expenditures, shall be taken in an open session. Commissioner Sparks seconded the motion and it carried unanimously.

Commissioner Hensley moved to go out of Closed Session. Commissioner Sparks seconded the motion and it carried unanimously.

Closed Session was held from 5:40 p.m. until 5:50 p.m.

**8. PUBLIC HEARINGS/MEETINGS**

- A. **Economic Incentive Grant** – Chairman Byrd call the Economic Incentive Grant Public Hearing to order at 5:53 p.m. He stated the purpose of the public hearing was to receive public comments on Mitchell County matching New Buck Corporation's One NC Grant in the amount of \$70,000.

No comments were received.

Chairman Byrd closed the public hearing at 5:55 p.m.

Commissioner Sparks moved to match the One NC Grant for New Buck Corporation. Commissioner Hensley seconded the motion and it carried unanimously.

The meeting recessed at 5:58 p.m. and reconvened at 6:10 p.m. at the Courthouse.

## **9. REPORTS/PRESENTATIONS**

- A. North Carolina Senior Tar Heel Legislature Update** – Mary Tichenor provided the Board with an update on the Senior Tar Heel Legislature. She informed the Board that she is working on making the SCC a Center of Excellence and would like to set up a Planning Committee for the elderly. The Board requested Ms. Tichenor to provide them the list for approval at their October meeting.
- B. Mitchell County Library Update** – Daniel Barron provided the Board with an update on the Mitchell County Library (a copy of his update is hereby attached and becomes a part of the minutes).

## **10. PUBLIC COMMENTS**

**Kathy Miller** started out by introducing herself and stated she would be speaking on behalf of the Board of Education. She shared that the other members were Roger Burlison, Tommy Ledford, Larry Fortner and Dean Meyers and that she appreciated the chance to speak tonight. She also thanked them for allowing the Board to be the first to speak since they do have another meeting to attend tonight. She stated they were not there to tell the Board how to do their job at all, but if they did not come to ask for help for the children, they would not be doing their job and they wanted to speak briefly about the proposed location for the proposed Asphalt Plant which would be very, very, close to two of our school systems. She stated the education of the children is their major responsibility and they are very concerned and feel responsible for their safety. She stated it was a concern that she felt all of us shared and that she would like to read a resolution that they had made which states how they feel about this; again we are asking for your help for the children (a copy of the resolution is hereby attached and becomes a part of the minutes). She thanked the Board again for allowing them to come and stated again, that they come for help, not for them, but for our children.

**Sumrah Salame** - stated she was a new resident of Spruce Pine, she's been here a short while, but long enough to realize that our community needs to come together on a lot of things, one of which is the health and safety of not only our school children, but the Brian Center residents and people with high risk of COPD or any other kind of respiratory problems. She stated that she was speaking on behalf of the Swiss Pine Lake residents where she now resides. She stated she had reviewed the "A-Pack Polluting Without Boundaries Report" that was put together by the Blue Ridge National Environment Defense League, which she also had taken the liberty of contacting in regarding the proposed asphalt plant. She stated it is beyond her ability as a parent, a grandparent or responsible citizen to think that these kind of pollutants could be allowed to be in the air that our children, our elderly and our infirmed would be breathing. She stated we already have one asphalt plant located in the county at Bear Creek, and that there's another one in Marion, and according to some of the other residents we have an asphalt plant also in Pinenola, in Avery. She stated Avery county has denied the plant and it also has come to her attention that the people proposing building this plant are not from this county, but from Yancey County so her question to the Board was why a Yancey County Development company would propose to build in our county since we already have an asphalt plant. She then asked if there was anyone behind this who may have some sort of connection to our county in some way to be able to bypass the ruling that there should only be one per county. She stated this does not sound kosher to her, she's very much against and everyone in her community of over 100 homeowners are against it; they had a special meeting regarding it. She stated they

were not opposed to going to the Blue Ridge Environmental Protection League as a defense committee to voice their concerns and take further action.

**David Woody** - thanked the Board for letting him speak one more time adding it's always a pleasure to come look and listen. He stated he enjoyed listening, but that he also liked talking. He stated there was a couple of things he would like to ask and if they wouldn't mind, to give him an answer. He stated last meeting the Board voted on building a jail for 4.1 million and that was pretty much what they agreed to borrow the money for. He then asked what the operating expenses would be such as food, clothing, laundry, help, and whatever we would have to have. He added he remember Patrick stating that we could rent out states to neighboring counties and make money from it. He stated he thought that with every prisoner there would have to be a deputy or two. He told Lisa she had stated she wanted to see some jobs come to the county, but that's taxpayer dollars; it's not that we have industry coming in that's creating jobs that will be something other than a taxpayer's problem. He stated he would like to see where this stands, if anybody has run the numbers or what it's going to cost and how many employees are we going to need. He asked about renting space and how much it would cost to do that. He stated it concerned him that we were going to have to borrow 4.1 million if we're not really looking at the long-range plan. He relayed we needed to look at what is was going to cost the Mitchell County taxpayer to operate because were at a critical point that every dollar counts, adding he would like every aspect of it from payroll to bonuses, benefits and insurance. He stated he would like to know where we stand in that perspective of it and if somebody could tell the people at the next meeting how much it's going to be and how much it will take to run it. He stated the asphalt plant was another issue that concerns the people of Mitchell County, adding he has an uncle who has really bad respiratory problems, his mother and father both had it. He shared he didn't know how much impact it would have on each individual person, but it would have some on the elderly seniors, aunts, uncles, brothers, sisters, whoever. He stated Young McQueen being from Yancey County, as the lady stated earlier, should want to put it in his own county, but they have one already in Cane River and that's the reason they don't want another one over there. He stated it might create two or three jobs in Mitchell County, but guess where most of those employees will come from, Yancey County. He stated with Young McQueen, you don't have to hire our people, so hopefully those kind of things will go away, but he does hope the economic development of Mitchell County are looking for jobs to bring some jobs into Mitchell County. He stated he sure hoped we weren't giving much of our EDC money to the Asphalt Company to create jobs.

**Dr. Carroll** - started with thanking the Board for the opportunity to speak to them. He then stated he wanted to talk about the issues that stem from the proposed-to-build asphalt plant in Spruce Pine. He shared that he thought this was, as other people had stated, a local issue, but it's also a bigger issue in how we deal with these industries in general that could potentially hurt us. He stated an asphalt plant would create bad smells, makes people sick, affect our school children and potentially would affect the property owners in the area; they could possibly lose their lifelong investment by decreasing property values. He stated that didn't sound like very good economic development to him. He also stated the second point that was brought up at the last meeting was about what it would take for the county to decide that the land use coordinates were for potentially harmful industries and that could be helpful if someone brought in a toxic waste plant, what's the difference. He stated we already had a toxic waste plant in the 1980's that was out in Yancey County and we went through a lot of trouble with it and people ended up getting sick. He stated it took a huge amount of work to get the thing shut down and it was the people of this county that got it shut down in the long run not the state. He stated we shouldn't have to go through that again, we need to be proactive in what's going to happen before they do. He stated he thought the way of doing that was by having an ordinance as to where polluting industry can be; they shouldn't be building them near homes, schools, nursing homes, churches, and it shouldn't take a whole lot of thinking to figure it's good that we don't allow those things. He shared if their going to be here, which he doesn't think we can prevent it, then should at least decide where they should go and not allow them to be in places where it's going to make

people sick. He stated there is also the issue of securing people's property value; it can be done because it has been done in other counties in North Carolina as they specifically allow counties to do this..

**Dewayne King** - began by stating he works at the Brian Center and has worked there for about ten-years. He shared he was sure that some of us had family members there now, well, their all family members to him and he loves them all. He stated in ten-years he had seen quit a few people die there with respiratory diseases that are real fragile and that group of people comes from around 120 to 130 residents there at nearly anytime and nearly two-thirds of them have a really compromised immune system. He stated that having an asphalt Plant directly downwind (cause their due east) would blow them right towards Brian Center, the schools, and park people who come to get some fresh air and exercise. He stated there was already the Bombardier Plant, but it was not nearly as polluting as an asphalt Plant would be; it's just not a good situation and on behalf of the residents that are fragile and cannot speak for themselves. He shared he would like the Board to be considerate of them when making their decisions.

**Don Cooper** - stated there had been a spokesman already represented for his Association. He asked if there were figures on the health aspects of the issue. He then conversed with a lady in the audience with information he asked her to share on toxic chemicals.

**Evelyn Riddle** - stated that regarding toxic chemicals, the Federal Environmental Protection Agency and EPA states that asphalt plants are a major source of air pollution such as formaldehyde, hexane, phenyl, phallic organic matter, toluene and many other air emissions. She read that exposure to these air toxins may cause cancer, central nervous system problems, liver damage, respiratory problems and skin irritations. She then asked the Board to please reconsider.

**Judy Cook** - shared that she lived in the Estatoe area and she figured this would be coming over her way where there is children and a lot of older people also. She stated her mother is sick and doesn't breathe well and she feels that Spruce Pine is a bad place for the plant to be. She stated there are things still more important than a few jobs and it will be to close to the Brian Center, stating she didn't see how this could help our county as she couldn't understand. She stated she didn't understand how real estate and tourism could help our county and wondered just how many asphalt plants were needed here and added the health of the people needed to be considered above all. She then thanked the Board.

**Jo Anna Ingram** - introduced herself and stated that as a Mitchell County resident she felt there should be a limit of asphalt plants. She stated there is one in Mitchell County, Avery County and McDowell County. She stated the principal at Deyton and all other teachers at the school feel that the asphalt plant shouldn't be built in the proposed area as children should come first, adding that they are our tomorrow and if we don't protect them, what kind of tomorrow will we have in Mitchell County. She stated the state may regulate the amount of toxins that go into the air, but that things do tare-up and more toxins may be allowed to go up into the air. She concluded by asking the Board to put the children and elderly first to protect them. She thanked the Board and stated she would like for them to consider her comments.

## **11. ITEMS FOR DISCUSSION**

**A. Development and Adoption of a Moratorium on High Impact** - Commissioner Sparks made a motion to postpone the Moratorium until the Land Use Study is completed. She stated they had discussed the Moratorium more than once. Commissioner Phillips seconded the motion.

Commissioner Sparks stated this could stop all buildings and progress in the county over an Asphalt Plant.

Chairman Byrd then stated there was a motion to postpone the Development

and adoption of a Moratorium on High impact and that he would lay it out on the table for any discussion amongst the Board members.

Chairman Byrd made the first comment by stating that concerning an Asphalt Plant, it was really a state issue; Mitchell County does not have a Land Use Plan adopted. He stated we are in the process of having a Land Use Study done and a Land Use Plan will be adopted at that point. He shared that when we have that adopted we will have some basis to go on and we can back up how we make our decisions. He stated the state will require a public hearing on the asphalt plant and they are currently working right now with some dates. He asked County Manager Vines to give out those dates because he would like the citizens to participate.

County Manager Vines stated he had talked with the Department of Environmental Resources today and they are planning a state public hearing. He shared the proposed dates were October 15, 16, 18, 22, 23 or 25; they will try to narrow down these dates and a location will be determined at a later time. He stated this was apparently a very important issue and they want everyone who can to come, those who need to be heard, to come and be heard. He stated as soon as there is any additional information on this about date, time, and location we will get it out; the state will also get it out because we will be required to put it in the local papers (the Ashville Citizen Times and Mitchell News Journal) so lets keep an eye out for that. He stated he hoped they would have a date settled in a few weeks time and concluded by adding that was all the information on the Public Hearing he had at this time.

Chairman Byrd stated there are plans for the Public Hearing part; also, the Board has adopted and funded for a Land Use Study to be done and Dr. Cooper from Appalachian State University will be conducting those studies out in the communities. Chairman Byrd encouraged everyone to be involved in those in their community; once the study is finished the Board will adopt a plan and at that point will be able to address the issues, having more say-so about it.

Chairman Byrd addressed a question from the audience, stating it was actually a state issue not a "for or against" or that we have the authority to tell them they can't come in here arbitrarily. He stated we can't do that till we have the Land Use Study completed with a plan in place; it will take about six to eight months and hopefully by March of next year.

The question was posed by someone about who owns the land.

Chairman Byrd stated it was going to be at the rock quarry.

The question was posed again as to who owns the land; no one seems to know.

Chairman Byrd stated that all he knew was that it was owned by Zemex or Feldspar or someone like that. He then asked if there were any more comments.

Commissioner Hensley stated he did because he was the one who asked for this to be put on. He stated he was going to ask for the hearing; he's not against the asphalt plant, just were it's going to be located. He stated he knows that can be changed in a moratorium; it can be located in a much better place than where it's located now. He shared that he knew one of the persons that owns it is a Sparks lady adding that where it's to be located the wind will blow in the direction of the schools and Brian Center. He also stated they would be burning number-four fuel instead of number-two, which is a very waste oriented oil that puts out high pollutants. He stated he had talked with the Mayor of Spruce Pine today and he knows that he and his board are totally against it; hopefully the board will take action and be in favor of hearings and moratoriums, but it's seems it's not. He shared we're not against it because of tourism in Spruce Pine, the odor will be terrible and everything. He stated the biggest thing he was disappointed in was the Board because they are saying to Mitchell County that

they don't care about the children or the elderly. He told the commissioners again that people were against it, and we can hold a Public Hearing and do a moratorium and the Board knows we can. He shared that Howell's office had drew up one for Avery County; he asked him if that was so. He stated that it was a time limit and they should know that, but why sit here and tell these people we can't do anything when we know we can and added he just didn't understand it.

Chairman Byrd stated it was still a state issue and it can be moved; it needs to be addressed at the state level, as that's who has the authority over this.

Public comment from an audience member was that if everyone was for the asphalt plant and where it is, there would not be need for a moratorium or anything; it would be left up to us to decide. She stated it would be left to us to vote against in the next election without any say so.

Chairman Byrd added again they didn't have the authority.

Someone posed the question about voting on the issue, asking the Board if they had to vote on it.

Chairman Byrd stated they did and that the Board needs to continue with their discussion.

Judy Cook asked if the Board voted for a moratorium if it would stop the asphalt plant or delay it. She asked if it would have an action, that it would do something, right? She stated if the Board didn't allow any development then that couldn't be good. She then asked for something to be done and asked if they could do a temporary moratorium.

Chairman Byrd relayed it was an undefendable defense that we don't have the authority to do that.

County Attorney Hal Harrison stated that all he knew was that Avery County was now being sued because of the moratorium they proposed. He added the county could do a moratorium, there's a special process that has to be followed.

Chairman Byrd then questioned why it should be done knowing it's wrong.

Commissioner Sparks added that she would not say she was for an asphalt plant and right now she would hold her desk free. She stated she had family in Brian Center and nieces and nephews who are in school in Spruce Pine. She shared there was a rock crusher where the asphalt plant was proposed to be built. She asked if anyone looked to see what we were breathing from that and what about Feldspar.

A Comment was made from the audience that it would only add to it and make it worse.

Commissioner Sparks asked if this was something that we are already breathing because there are still a lot of unanswered questions she had concerning this. She shared she didn't want to see anybody's health affected by this.

A public comment was made suggesting what Commissioner Sparks was talking about, was dust, and mentioned a few other things.

Commissioner Sparks stated there could be some things that were already currently there and asked about hydrochloric acid being used there currently for that rock crusher.

Commissioner Hensley and others in the audience stated it was used in the plant, but it's very controlled.

Commissioner Sparks said, "OK." She shared that she was still trying to figure out how the one in Ledger got there, she wasn't aware that it was there until a few weeks ago.

Dr. Carroll stated he would be happy to answer the question about the mining plant. He stated that certainly there was dust coming off the mining plant, but it's totally a separate issue because in the asphalt production process, gravel, dust, and everything like that runs through a dryer heated up to about 325 degrees; there's a big massive blower that blows that stuff into a separate collection unit called a "bag house". He stated it has a bunch of filters that filters out all the dust, or at least the majority of it, and that goes up into the air (that particular part). He added there was a whole other set of things, which happens when you burn a number four fuel oil and use it to heat up tar to mix it. He shared that you get dentine, formaldehyde, hydrogen sulfide and other noxious pollutants you get from an asphalt plant. He added that there would be a little bit of dust coming from the gravel quarry today, but you multiply it several times, adding all the other pollutants and that's the difference of what's there now and what would exist.

Commissioner Phillips then shared that he had never been for anything that would propose a health risk to children; he has children in school himself; if the air quality is made bad by this plant, affecting the people and kids in the schools, then he would be against it. He stated he would not be for a moratorium to stop industry because he was elected to get jobs in this county, not to stop them.

Chairman Byrd stated there was a motion made on the force to postpone the development of an adoption of a moratorium on High Impact Development in Mitchell County until a Land Use Plan is adopted. He asked if that was correct.

Commissioner Sparks stated it was.

Chairman Byrd stated there was a motion and a second and it carried.

Commissioner Sparks did state that the Sparks woman referred to earlier as owning the land, is not her and it was not made very clear.

**12. CONSENT AGENDA** – Commissioner Sparks moved the approve the Consent Agenda (a copy of each item is hereby attached and becomes a part of the minutes). Commissioner Saylor seconded the motion and it carried unanimously.

- *Proposal for Engineering Services for Mitchell County's Tower*
- *N.C. Department of Juvenile Justice and Delinquency Prevention*
- *Juvenile Crime Prevention Council Certification*
- *Appointment to the Workforce Development Board*
- *Resolution of Appreciation to the General Assembly for Relieving Counties of Medicaid*

**13. COUNTY MANAGER'S REPORT**

**A. Approval of QZAB Application** –County Manager Vines informed the Board of the Approval of the QZAB Application.

**B. Manatron Contract** – County Manager Vines told the Board the Manatron had been signed

**14. BOARD COMMENTS** - None

**15. ADJOURNMENT** – Commissioner Hensley moved to adjourn the meeting. Commissioner Phillips seconded the motion and it carried unanimously.

The meeting adjourned at 7:02 p.m.

MITCHELL COUNTY BOARD OF COMMISSIONERS

---

Phil Byrd, Chairman

---

Lisa Sparks, Vice-Chairman

---

Mike Hensley, Member

---

Patrick Phillips, Member

---

Jim Saylor, Member

ATTEST:

---

Kathy Young, Clerk to the Board