

MITCHELL COUNTY BOARD OF COMMISSIONERS

MINUTES

REGULAR SESSION

NOVEMBER 5, 2007

NORTH CAROLINA

MITCHELL COUNTY

The Mitchell County Board of Commissioners met in regular session on November 5, 2007 at 5:00 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; Charles Vines, 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 5:00 p.m.
2. **INVOCATION** – County Manager Vines gave the invocation.
3. **ADDITIONS OR CHANGES TO THE AGENDA** – None
4. **ADOPTION OF AGENDA** – Commissioner Sparks moved to adopt the agenda. Commissioner Phillips seconded the motion and it carried unanimously.
5. **CHAIRMAN'S COMMENTS** - None
6. **ITEMS FOR DISCUSSION**
 - A. **Professional Services Agreement with PNC** – Commissioner Sparks moved to approve the Professional Service Agreement with PNC (a copy is hereby attached and becomes part of the minutes). Commissioner Phillips seconded the motion and it carried unanimously.
 - B. **French Broad Electric Tower Site Lease** – Commissioner Hensley moved to approve the French Broad Electric Tower Site Lease (a copy is hereby attached and becomes a part of the minutes). Commissioner Sparks seconded the motion and it carried unanimously.
7. **PUBLIC COMMENT**

Sandra Wilcox - stated she was mostly addressing three commissioners adding that she did not think they had the concerns of our school children, our daycare centers, playground at Brad Regan Park, the school playground and citizens of Mitchell County in their best interest. She stated that yes, we need jobs, but what were 3 or 4 jobs in the interest of people's health. She stated she has bronchitis, asthma and a slew of health problems, but there's a lot more people in Estatoe that have worse problems. She added she loved the county and the air. She stated she loves getting out in the air and on her porch, but there's no way she will be able to do that if an Asphalt Plant is allowed to be built on Chalk Mountain. In conclusion she thanked the Board.

Judy Cook - stated she was not a public speaker, but that she did speak her mind. She stated we do not need another asphalt plant in this county. She stated that if there was a need for more asphalt in the county, then why not increase the production in the plant we already have. She added that 2 or 3 extra jobs in the

county are not worth all the problems that the proposed plant could cause. She relayed that we need clean industry that could employ a lot of people. She then asked who would want to even visit a place that smells of asphalt, adding we need a moratorium.

Judy Self - stated that first of all it would be nice to have some commissioners that would listen to the comments with an open mind instead of telling us their not going to do anything and then telling us it's our time to speak. She stated she had talked with the Attorney General's Office and they made it very clear that it is not their job to determine the location of a plant, but that it is the local Boards job to determine the location. She stated that they had agreed that it did not need to be located near a school, but that they kept on with the fact that is the local commissioner's responsibility to see that it is not placed there. She stated the commissioners needed to think about this again and the long-term impact; having this here will classify Mitchell County as a Tier 1 county just like Caldwell County is. She stated that Caldwell County had gone into Goggle jobs and that the site was going up right now. She stated that in listening to this on the Radio that they talked about what they looked for which was number one, a one tier county, number two, they looked at the education system and Mitchell County has a good school system, but if you look at the school's report card for Deyton and Harris for the past couple of years, it's not been that good; they did not meet the grade at Harris for the last two-years, but Deyton made it in 2006-2007, not before. She stated these are things they look at and by putting in an asphalt plant it would make it even harder for them to meet growth. She stated this was because it affects student's health, their breathing ability, their learning ability; adding the Board was setting themselves up for even more problems. She stated they also looked at the quality of life and pollution in the area and with an asphalt plant all of that will go down as well. She added infrastructure was another thing, long-term to get 2 to 4 jobs right now, you will probably lose a lot of other jobs; we need cleaner industries, it just doesn't make sense. She asked the Board if they remembered Mitchell Systems; it took a long time to get that shut-down that was one of those in which we trusted the state to look after our health, they didn't. She asked how many people were injured or were ill and still suffering from the effects of it. She stated that she thought this was something to really think about and that we were getting set-up to go through the same thing again. She went on to add that 19-E traffic is really bad and an asphalt plant with trucks going in and out all the time will make it even worse and the plant will be up and running before the four-lane; we're being set-up for more accidents, more injuries, more pollution and she added she didn't see how this could be anything positive for Mitchell County in the long run.

Lori Flood - stated not too long ago the public hearing was held and she was sure the Board had read about it in the paper. She stated there were a lot of people in support of opposition to the asphalt plant or permit adding comments were submitted, but they had not heard anything on the decision they expected to be made. She stated she thought it would be sometime in December, but didn't know if it would be early or late, within 30 days of the comments sometime around October 30. She shared it was up to our county government to ensure our health since the state cannot do anything as long as there's a permit, it can be permitted. She stated she wanted to read an article in the guest column of the paper and it is (in all due respect) to our local officials here. She shared that it was stated that the predominant direction of the winds would be away from the Asphalt plant, such as it would be from the North West blowing toward the Southeast. She stated she would like to clarify that as she had data from Race Weather.Com website, as well as speaking with Meteorologist Tom Anderson who actually did the lobbying studies for the permit as he works with Air Quality in Raleigh. She stated throughout most of the year, nine-months in particular the predominant wind flow is from the Southwest to the Northeast. She asked if she could demonstrate and stated she also had a map if the Board would allow her to present it. She stated it shows the location of the asphalt plant and the most populated sights such as Brian Center, the daycare, Harris Middle and Deyton Primary. She added the direction from the website showed the predominant wind-flow for the months, using as an example, April which was 203 degrees. She shared information with the Board using a face of a clock.

She showed the direction it would go and about how many degrees by using the clock. She stated there was variability, there were five days in November that the Predominant wind-flow was 201 degrees and on the 1st and the 2nd were 115. She stated there are times the wind-flow is off, causing variability in both directions. She stated she had gathered this information by talking to a meteorologist and other people (she used a chart to point out to commissioners the direction of the winds). She stated there was also a power-line cut through the trees, so the wind would seek the path of least resistance from the asphalt plant to the English Woods and Harris Street. She added that at the Land Use Meetings there has been turn outs of those who express that they are dissatisfied with three of the commissioners and she stated with all due respect, it's better to be honest about things and not to hide things. She continued by stating at the Buladean Meeting (the last meeting) there were twenty-one votes to vote-out three of the commissioners and at other meetings there were things that people are not satisfied with. She stated it was not to be personal, but she noticed there were no commissioners in attendance at that last meeting.

Ted Salame stated he didn't think he had ever met the Board, but what he had to say was not in regards to the asphalt plant. He stated he was made aware that there was a composed Moratorium at some time, adding he was sorry but he hadn't been involved with local politics, but those concerned, were kind enough to show it to him and he felt it was broad. He stated he had since found out that it had been re-written and wanted to know if it had been submitted.

Chairman Byrd stated no.

Mr. Salame stated that he was concerned as a real estate agent for Mitchell and Yancey Counties. He stated he had begun to drive some of these subdivisions and the Board should know themselves that an EMS vehicle or fire truck could not make it through some of the tops of these subdivisions, not even to the middle of them. He stated he had spoken as of today, to fourteen other agents, four of which are owners of companies willing to put together a study commission, because we are the ones that sell these. He stated that he knew himself that he didn't want to put anyone's life in jeopardy, God forbid they build their dream home and come here in the summer and a fire breaks out and there is a loss of lives. He stated right now it is their slow time between November and April and if a study committee could be put together (he has also spoken to members of the fire department) he stated they would be more than willing to work to put something together. He then asked the commissioners to please consider something along those lines; it doesn't have to be for a year, it could certainly be hammered out by enough people who are willing to get involved six months or even less. He stated that something had to be done, existing subdivisions could be grand fathered in, but future subdivisions which is part of the mission statement here, is that the county will grow because there is going to be more people. He added that a fire truck and EMS services had to be able to reach people if someone has a heart attack. He continued by stating that he was willing himself to put the committee together, hammer it all out, as many people who want to join "Tomorrow Industry" or even from the public site are more than welcome; something needs to be done. He stated he hoped it was not tabled and put-under and that it doesn't want to be discussed, because it needs to be discussed; eventually it will lead to loss of life.

Don Baucom - thanked Chairman Byrd and began by stating he had two issues that he wanted to share with the Board tonight to let them know what his feelings are. He stated that first of all it had come to his attention that a lease agreement has been entered into by Young & McQueen and Great Meadows on the land upon Chalk Mountain; it was hard to track that information down, but that he felt that was a true statement, very reliable. He stated that since the Board was post friends with Great Meadows Van Phillips and having been involved with them, that more and more real estate developments such as Ledford Ridge from Cane Creek and one on Gouges Creek Road and those being on the Lands owned by the Feldspar Corporation. He then asked them to prevail upon Phillips to cancel the lease or find other suitable land to lease to Young & McQueen so we can move in the direction of elsewhere. He

stated he also had reason to believe that the lease had been broken, because it has come to his attention that Young & McQueen indicated that they would be willing to move the lease and location to some other place; if they could find a suitable place and if there are people in the area who could find that suitable place. He stated that with all the situation we've been going through on not doing something, we need to work in a positive way and get them to move that plant and solve some of the problems these people perceive. The second issue he spoke about was the newspaper article that was put in the paper two-weeks ago; indicating the proposed plant did not come to Mitchell County because of our poison-talk rhetoric. Mr. Baucom stated that he wanted the Board to know that he does not make any apologies in the actions that have been done to try and make sure that we provide clean air, clean water, and a suitable place, for our children and our citizens to be involved in, in this county. Mr. Baucom stated if that's poison-talk and rhetoric, then he will continue to make the poison-talk and rhetoric, in relationship to items that he feels we are not taking care of such as the people of the county. He stated he agreed on one issue that we need more companies and jobs in this county and perhaps if those people knew what our plot was they would reconsider and come back again.

Bill Wygand - stated that Commissioner Byrd had indicated several times at these meetings that he believes all the people of Mitchell County need to know what's going on and need to have a voice in public matters. He stated we have heard the talk about "real-time video broadcast" at the board meetings and we will see significant improvement in the county government communication with the people. He stated that in this context he did not understand the deplorable state of the county's website and cannot comprehend why County Commissioner Meeting Minutes have not been published on the website since the election of the current board. He recommended to the Board that these minutes be published in the immediate future for the benefit of the number of Mitchell County residents new to county politics and governments by the current Board of Commissioners. He stated these minutes, especially from the more pharisaical meetings, will explain a lot to those who don't understand this board's resistance in protecting Mitchell County on scrupulous development and unnecessary toxic emissions.

Donald Cooper - thanked the Board and stated he wanted to address them as a disillusioned citizen of Mitchell County. He shared that he thought the commissioners were responsible as guardians of the citizens, adding he had already heard tonight about examining plants and businesses that want to come in; that it's their job and the Board looks into that and he thanked them for that. He stated he had no way of knowing that sort of thing. He stated we need business, we need industry, but he considers the Board to be out guardians, our representatives, to examine these things. He added that when this asphalt plant thing came up, he would have expected five to state we need industry, but by asking that it not be placed where it can harm the students, not near a nursing home, not where the winds will blow over the community as a whole. He shared the water resources we drink of could be poisoned, will be poisoned, and we could continue in a drought. He stated that above where he lived was a reservoir, and the way he understands it, from when they first moved there, it use to be the cities water supply; if a drought gets serious, you may want to use that, but he really didn't think they would with the arsenic that would be in there. He stated that with the water from the wells and the other pollutions going on, he would have thought that all five of the commissioners would have risen up and said "no way, you can't do that right next to these people" with the schools and all the other fragile aspects of this community, but no, you didn't. He stated there was a hearing on air quality control in which two-hundred people showed up (there will be a hearing tonight also, which will have pros and cons) and he felt the three opposing commissioners should have been there to present their side on why they don't have a hold on this thing; they weren't there. He stated that he heard one voice of all the speakers that stood up for even a plan with our best of interest and two commissioners spoke against it, yes, but he expected three, but you weren't there; it was very one-sided. He stated it's time to put the moratorium back on the agenda and don't take other suggestions for improving something that could delay this thing. He stated this is suicide; many of us will probably die because of this decision, which

is ridiculous and needs to be reversed. He relayed that elections would be coming up and three of them better remember that.

Dr. Carroll - stated he thought it was good that folks had come out and were given the chance to give their input at this level of county government; adding, he didn't have a prepared speech and would be pretty brief. He stated he would like to hear a little bit from the Board, their comments, something a little more definitive about what the Board does plan to do with regards to the Land Use Study under taken by Dr. Cooper. He added that the information will be moved forward from the stage that it is now, basically town meetings and how the board or chairman would view it through the various committees that would be formed or discussion groups to actually formulate some Land Use Plans. He stated that a lot of people, including his self, looked at this as being an exercise that could very well be a complete waste of time if the Board doesn't take the information that's obtained and use it in a serious way to make some changes. He stated he felt there were a lot of groups that needed to be heard and he is certainly hopeful that these groups are heard; not just those that typically do make their opinions known, unlike himself. He stated a lot of people may not like to come to meetings and he would like to see a little more broad base for the whole project and perhaps some others ideas on how to get more people to these meetings. He stated they are pretty well attended, but he thought they could be better if there was a little bit more publicity in trying to get more people to come. He continued with the second thing he wanted to add by stating that at the public hearing he was a little disappointed; only two commissioners came to the hearing on the asphalt plant and he really expected that everybody would be there since it was a pretty big event for the county. He told the Board that it doesn't say a lot for the state of our government that we only had two commissioners who came; he thought we could continue to do things as they have been by continuing to flounder along, or we can really make some improvements if county government seems to be a little more involved in talking to the people. He stated we needed to find out more what is going on and things could be done better at a dialog both ways, and hopefully we can do that. He stated one of the problems, as stated earlier, was that the Board wanted to be more open while at the same time most people feel like their being shut-off. He shared he didn't think the Board now was going to get a whole lot of sympathy from people if the only people that listen are those who have the money and the time, to venture here. He also added again, he hoped the Land Use Study was brought up during the Board comments and he submitted a list of 802 residents (not all of them are from Mitchell County, but the majority of them are). He stated that it was from folks who requested that the moratorium be placed to prevent the Asphalt Plant from being built in that location, or put off, until we have done some careful study to figure out where a safe place would be for this kind of industry. He shared that it was a complicated process, but that it's definitely doable since we have done some complicated things before. He stated again that we definitely needed to do this kind of planning if we are going to move forward.

Robert Hopson - stated he would like to say a few things about the meeting that was held at Buladean adding that Dr. Cooper was there with a bunch of kids from college. He shared he didn't understand why we didn't have some teachers and kids from Mitchell High doing the survey; he added he didn't see Phil Byrd there and he asked him if he had been to any of the meetings.

Chairman Byrd stated he had been to the meeting at Mitchell.

Mr. Hopson told him he should have been at the one at Buladean too, and all of them. He stated as for himself, he thought that it was one of the most wasteful things of our taxpayer's money that he had ever seen. He shared that they gave them little stars to put up on the boards of what was more important in Mitchell County and what had the most stars of all, was to vote Phil, Patrick, and Lisa out of office; he added he was for it too. He stated they didn't care for the old people or the kids, and stuff, adding the way to get them out, is to vote them out. He shared that something else to do, was where they work, get them in the billfold; he bought a new Chevrolet truck a few months ago in Tennessee and didn't even consider R.L. Hoilman's Chevrolet place because two of the commissioners work there; two or three more people were going

to buy new trucks, but they were going elsewhere too. He stated in conclusion that they would get the message.

Joann Ingram - stated she wrote the Governor's office and they told her also that the asphalt plant was a local government issue. She stated she wanted to get back to health care and shared that on her lunch break she talked with several people that are concerned about the issue. She added she works with a lot of people and all that she has talked with say the same thing; they are all concerned about this. She stated they don't want the plant above the schools and they're concerned about the Brian Center; she hasn't met anybody who has told her anything different. She stated we needed to stop and think about what was most important, the health of the school children, elderly and the populated residential areas. She shared we don't know for sure about what would happen to the health of all the people around the Asphalt Plant, but if it is bad, should we put children and elderly at risk? She stated if the plant is not run right a lot of people could get sick, maybe 5 or 10 years down the road, so the right thing to think about is health before anything else. She stated we need jobs, but this one needs to be reviewed with all the possible health risks. She asked the Board to think about it and pass a moratorium or rewrite it in a way that all could agree.

Sumrah Salame - thanked the Board for listening and stated the mission statement of the Mitchell County Commissioners was that their goal as a board was to provide the most effective and efficient public services to the citizens of Mitchell County. She reinforced the citizens of Mitchell County, relaying that when the citizens come forth and speak to them about an issue such as the Asphalt plant, it should be reconsidered, but you willingly deny their requests, not serving them. She stated to the Board that it was their job, what they were elected to do and we take our voice, our privilege to vote very seriously; we take the health of our children and our elderly very seriously; we take the community and the direction it is going in very seriously; if you are not going to take the desires and the wishes of the people you serve seriously, and your interests are elsewhere rather than with the people that elected you, who you're serving, then that has a word, "corruption". She stated she hated to think our elected leaders were serving some other interest other than the people who they have elected to serve.

Sharon Husky - stated she was a local business owner, property owner and a mama who was going to speak on behalf of two of her children and a third of whom is not here. She stated they want to know why, if they can, you can't make this not happen right here in town. Why couldn't it be somewhere else? She asked again if they could answer that.

Mrs. James Pittman from the audience asked questions concerning a new board being elected. She asked when the next election comes up and a new board is elected and they make rules or ordinances restricting where certain plants, like an asphalt plant can be located, would that be effectively mandated to close that kind of plant? She stated the reason she was asking was if McQueen and those involved, decide to go ahead and put all that money into building and operating it. She asked if this would be possible.

Chairman Byrd stated he didn't know.

Mrs. Pittman then asked Hal Harrison what he thought.

County Attorney Harrison, stated it would have to be grand fathered in.

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

- *CJPP Designated Authority*
- *CJPP Standard Grant Award Contract and Conditions*
- *Education/Government Channel Resolution*

- *Homeland Security Grant for VIPER Funding*
- *2007 Scattered Site Housing Grant Funding Approval*
- *2007 Scattered Site Housing Grant Agreement*
- *2007 Scattered Site Housing Grant Signatory Form & Certification*
- *Performance Based Contract: Implementation Schedule for 2007 Scattered Site Housing Grant*
- *Contract with Boone Housing Authority*
- *Update to Fair Housing Plan*
- *Categorical Exclusion for Urgent Repair Grant*
- *Environmental Review for Urgent Repair Grant*
- *Formal Request to be added to the State Health Plan*

9. COUNTY MANAGER'S REPORT

10. BOARD COMMENTS - Chairman Byrd stated he knew this was a passionate issue for everyone at the meeting tonight. He stated he wanted to be perfectly clear on his stance with this issue and where he is coming from. He stated the reason they were having Community Meetings and Land Use Planning Meetings is for issues such as everyone is here for tonight. Chairman Byrd stated that Land Use Planning gives them the basis to take action such as moratoriums and ordinances. He shared he has never stated that the county did not have the authority to act concerning location; that's true, but we have to take the proper steps to get there as with Dr. Carroll. Chairman Byrd used Dr. Carroll as an example since he is a licensed physician, stating he can go through the steps in which he can treat people because that is what he is supposed to do, but still he's governed because he is a licensed doctor; if he doesn't have his license in North Carolina he is not suppose to do that, even though he is a licensed doctor. He stated he still has to take the proper steps to get there and that's what the Board is doing with the Land Use Planning Meetings that's going on in the community. He added because there had been a division among the Board that Commissioner Phillips, Commissioner Sparks and himself were the three that had voted for it and had moved forward with the issue. He stated that Commissioner Saylor and Hensley had voted against it and they could change their stance and position any time they chose to do so, if they stated publicly they support these meetings. He stated they were more than welcome to do so and he would clear that part of the issue up now. He stated he supported the meetings because their important to communities in this county as a whole; when the meetings are finished, then the Board will decide if they want to develop a plan and if we do develop a plan then it moves forward and we decide if we want to adopt the plan or not. He shared that the plan can be anything, and for all of those who attend these meetings, you know there are no preset conditions that this is suppose to come out of; that's why they go to each community with an open meeting for anyone. He stated this was the most progressive stance that's ever been taken toward looking forward to the future of Mitchell County that's been done by this Board. He shared that they we're catching it on the Asphalt Plant, which is fine because that's our positions since being voted in by the people and we're going to stand by that. He stated that he stood by everything that he had said, because it has been very true with no corruption by any means, flat out, none. Then he added he didn't care for the accusations and may have a change to prove those, but we're doing what is right for this county and for those reasons. He stated they wanted to know what people say in this county, how they feel and once those are in place this Board can move forward if there's a desire for that. He then shared that he wished he had never heard of an Asphalt Plant, it's not been a pleasant experience for any of us, but still by the same token those steps have to be taken to insure that we are prepared and we have a defendable position on whatever we do. He stated that was his comment concerning it.

Commissioner Sparks then ask County Attorney Harrison to read the law concerning the moratorium to the public. She asked him to read what must legally be followed concerning the moratorium.

Commissioner Saylor stated there was a moratorium that he tried to get introduced to the citizens and the Board. He stated he was appealing to Commissioners

Phillips, Sparks, and Chairman Byrd to consider this. He stated it was a moratorium that was adopted by McDowell County in November of 2004. He stated it had been structured and reworded to fit Mitchell County and all of the North Carolina State Statutes have been updated. He added that Senator Joe Sam Queen has been talking to Mr. Young; he has stated, according to Mr. Queen that he is willing to relocate the plant if there is a location that is found suitable away from the schools and also the Brian Center. He stated he would like for the County Manager and each Commissioner to look at a copy of this and he understands what the County Attorney has stated and he is exactly right on the procedure; that's the reason he stated in due process when he tried to make a motion.

Chairman Byrd then asked based on comments, why they just didn't go to another site as it's not up to us to tell them where to go or the site location if their willing to do that, why don't they just do it.

Commissioner Saylor stated he would have to ask Mr. Young because according to Senator Queen, he is willing to consider another location.

Chairman Byrd asked Mr. Hensley if he had any comments.

Commissioner Hensley stated, one, he didn't see why they as county commissioners didn't look for them another spot and try to locate them one since it is our business as commissioners to try and find them one; and why not help them relocate.

Chairman Byrd stated that it had been voted on at the last meeting that the moratorium would not be put back on the agenda until a Land Use Plan was passed. He stated the vote was postponed and that's what happened. He stated by answering "yes" that there would be a master plan for the county concerning the Land Use Plan; it has been in the papers on the radio and that's what they have been working on. He shared with Dr. Carroll that what he had been talking about had already been started and that's what the community meetings were about and as a matter of fact there will be one at 7 pm at Greenlee School tonight. He added it was an open-end meeting and they wanted all public comments, each and everything at those meetings; it can even be something like not wanting the county commissioners there. He stated that regarding this issue and the moratorium that it wasn't personal feelings that were involved, it's simply what steps need to be taken to go forward. He stated that the Mayor of Spruce Pine, Wes Foy has the authority to go one mile out of Spruce Pine City limits and annex that property if they want too; but there's a due process with that also which is no taxation without representation. He stated there are steps for that as well to get to there and that's probably why the Town of Spruce Pine hasn't done anything, but he doesn't know for sure.

Commissioner Saylor then added that the one-mile limit outside of the Town of Spruce Pine is extra jurisdictional territory and if that is voted in by the citizens of the town it does not include taxation; they would not be taxed. He stated the process they would have to go through would be that the Board would have to grant them position to hold a hearing.

11. **ADJOURNMENT** – Commissioner Saylor moved to adjourn the meeting. Commissioner Sparks seconded the motion and it carried unanimously.

The meeting adjourned at 6:03 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