

**MACON COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING
FEBRUARY 11, 2020
MINUTES**

Chairman Tate called the meeting to order at 6:00 p.m. and welcomed those in attendance. All Board Members, County Manager Derek Roland, Deputy Clerk Mike Decker, Finance Director Lori Carpenter, County Attorney Chester Jones, members of the news media and interested citizens were present. Due to the size of the audience, Chairman Tate announced that the board would recess the meeting and reconvene in Courtroom A on the fourth floor of the Macon County Courthouse. Upon a motion by Commissioner Beale, seconded by Commission Shields, the board voted unanimously to recess the meeting at 6:01 p.m. and reconvene in Courtroom A.

Chairman Tate reconvened the meeting in Courtroom A at 6:10 p.m., where it was standing room only with a number of citizens standing outside the courtroom doors in the hallway. Chairman Tate welcomed those in attendance and remarked this was the largest crowd he had ever seen at a board meeting, and noted that an effort was being made to bring as many people inside the courtroom as possible.

ANNOUNCEMENTS: Chairman Tate recognized State Representative Kevin Corbin, Cherokee County Commissioner C.B. McKinnon and Town of Franklin Mayor Bob Scott. Chairman Tate noted that he had received a copy of the annual report from the North Carolina Education Lottery, as well as a “thank you” letter to the board from a Highlands school teacher. He also explained that down in the boardroom, the county had placed a “reserved” sign on the back row of benches in honor of Rich Robb, who died recently at the age of 96. Mr. Robb, a World War II veteran, and his wife were longtime regular attendees of the commission’s regular meetings, and Chairman Tate described him as “a genuine soul.” Board members expressed their condolences to Mrs. Robb.

MOMENT OF SILENCE: Chairman Tate asked those in attendance to observe a moment of silence.

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

PUBLIC COMMENT PERIOD: Chairman Tate pointed out that 19 individuals had signed up to speak during the public comment period. He asked that those speaking limit their comments to three minutes in length, to be respectful of other speakers, and to address the commissioners and not the audience. He also asked the audience to respect the speakers.

NOTE: Due to the number of speakers and the length of their comments, these minutes will reflect the basic theme of their viewpoint in as concise a manner as possible.

Dave Hurd said he strongly supports a vote by the board to approve a resolution that would make Macon County a “Second Amendment Sanctuary County,” stating he was disappointed that this item was not on the agenda and that 54 other North Carolina counties have passed similar resolutions. He presented the board with signed petitions to “make Macon County, NC a 2nd Amendment Sanctuary County,” and stated that 1,085 signatures were collected. (The signed petitions are on file in the Deputy Clerk’s office.)

Sara O’Neal and Maggie Jennings spoke at length regarding equal access to art education in the Macon County school system, and gave the board an overview of the current situation, noting there is no course in either music or art at Macon Middle School. They told the board they had made a similar presentation to the Macon County Board of Education on January 27th. The duo outlined in detail their three-year plan for improvements to arts education in the school system, a copy of which is attached **(Attachment 1)** and is hereby made a part of these minutes.

Donnie Holden read from prepared remarks, and stated that the board members asked him, at their meeting last month, to present a resolution to make Macon County a Second Amendment Sanctuary, which he did, and a copy of that resolution is attached **(Attachment 2)** and is hereby made a part of these minutes. In presenting the document, Holden told the board that this is not legislation but instead is a reaffirmation or “a promise to the people of Macon County that the same oath that they [the commissioners] took upon entering service to the people is still upheld.” He went on to state that this is “not political” but is a “commitment from our elected officials that they believe in The Bill of Rights and United States Constitution.”

Tim Dills voiced his support of the Second Amendment Sanctuary resolution, and told the board members, “All we want from you is your word.”

Hazel Norris also voiced her support of the sanctuary resolution, asking the board to “do what’s right for Macon County.”

MaryAnn Ingram told the board that she likes guns and was a sharpshooter during her time in the U.S. Navy Seabees, but then raised questions about what defines a sanctuary. She then spoke of efforts to live in peace and the importance of individual lives. She asked the board members to “think about the sanctuary you want to be.”

Susan Ervin, who told the board she was representing a large group of women present in the room, said this group “has come together before you to express our opposition to making Macon County a Second Amendment Sanctuary. She said the group does not oppose gun ownership but does support reasonable gun control. “The proposed ‘sanctuary’ does not make us feel safer,” she said, later concluding, “The definition of a sanctuary is a place of refuge or rest, a place where you can feel at peace. We do not need a Second Amendment Sanctuary in Macon County, we need people working together to make our community a safe and peaceful place.”

Ronnie Dills commented that the Second Amendment “shall not be infringed,” and told the board that if the sanctuary resolution is not taken seriously, “things may go too far,” pointing to recent events in Virginia as an example.

Jane Morgan, the president of the Gem & Mineral Society, asked the board about an extension of the lease agreement between the county and the organization, a document she believed was going to be signed tonight. Mr. Roland pointed out that the agreement entered into last month is for one year, and Commissioner Beale said the board would be considering an extended time frame.

Laurel Holland addressed a school shooting that happened two years ago, and urged the board not to support the sanctuary amendment resolution and to “let our children come home safe.”

Bill McLarney said he was not in support of the concept of the county as a second amendment sanctuary. He went on to state that he is not “a nut,” nor he is anti-gun, but later added that, “It doesn’t strike me as logical not to regulate firearms.” He urged the board not to have a “knee jerk reaction” on the resolution and to think it through.

Chris Browning said, “I think we have a good idea where individual board members stand” on approving the Second Amendment Sanctuary resolution. He spoke about symbolism, particularly of the American flag. He told the board members that “you promised us you would do this in January,” adding that the board asked Donnie Holden “to put this [resolution] together.” In closing, he requested, “Let us know where you stand,” urging the board to let

Macon become the 55th county in North Carolina to pass this type of resolution.

Meghan Partain told the board she was a resident of the county and a “stay-at-home mom.” She said there is a “nationwide crisis” regarding citizens being unopen and unwilling to discuss laws and asked the board to consider families who have been “shattered by gun violence.”

Ed Trask addressed the Nantahala community library, and more particularly the recent space needs analysis conducted by Moseley Architects. Noting that the final determination is that the building is outdated and needs to be replaced, he countered that the proposed \$1.4-million cost to replace it is “way over and above.” In his “humble opinion,” Mr. Trask said this leaves a lot to be desired, and asked the board to commission a local architect to work on this project and to “come up with something much more reasonable.”

Henry Horton began by thanking the board for honoring everyone’s First Amendment rights. He spoke first to the arts in schools issue, suggesting that the STEM (Science, Technology, Engineering, and Mathematics) acronym needs to be changed to STEAM to “put the arts in there.” As to the Second Amendment Sanctuary issue, he questioned what happens if such resolutions oppose federal or state law and does the county have any liability in the event of someone’s death. He asked, “Are we reaching a point where we individually fracture...and decided which laws we are going to follow?”

Sandi Ervin voiced her opposition to the Second Amendment Sanctuary resolution, saying that the petition presented to the board “is not the majority.” She told the board members they “have to look at the whole picture of your electorate,” and “protect all rights for all people.”

Sheriff Robert Holland told the board he had worked to remain neutral regarding the Second Amendment Sanctuary resolution, adding that “people who know me know where I stand on this issue.” However, he said that the “reality of the process” is that he had never seen someone bring a resolution to the board and have it be voted on immediately. He said the matter would need to be discussed amongst the members and with the county attorney, who would need to review any resolution and provide good legal advice. “We want you to take a sufficient amount of time and make the right decision,” he said. He then provided the board with another draft resolution to consider, this one from the North Carolina Sheriff’s Association entitled “Resolution Declaring Macon County, North Carolina a Constitutional Rights Protected County.” A copy of the draft resolution is attached **(Attachment 3)** and is hereby made a part of these minutes.

The public comment period ended at 8:04 p.m.

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

- To add under Reports and Presentations Item 9A – an update from Dr. Don Tomas on the burn building at Southwestern Community College, per Mr. Roland.
- To add under New Business Item 11E – discussion of the U.S. Forest Service plan, per Mr. Roland.
- To add under New Business Item 11F – consideration of a resolution exempting surveying services for the Henson property gift, per Mr. Roland.
- To add under New Business Item 11G – consideration of a resolution exempting engineering services for convenience center improvements, per Mr. Roland.
- To add under Appointments Item 13B – consideration of appointing Jerry Moore to the Economic Development Commission, per Mr. Roland.

NOTE: During this time on the agenda, Chairman Tate paused to allow members of the audience to leave the courtroom.

- To add under Old Business Item 10C -- discussion and/or consideration of a Second Amendment Sanctuary resolution, per Commissioner Higdon.
- To add under Reports and Presentations as an addition to Item 9A – consideration of a resolution exempting surveying services for the National Guard Armory, per Mr. Roland.

Reports/Presentations

UPDATE ON BURN BUILDING: Dr. Don Tomas, president of Southwestern Community College (SCC), provided the board with an updated status report on the proposed new burn building. One of the first items addressed was that there was no new cost estimate. The discussion then turned to a survey and appraisal of the National Guard Armory property and the costs associated with those matters. Following extended discussion, and upon a motion by Commissioner Gillespie, seconded by Commissioner Shields, the board voted unanimously to (1) approve a “Resolution Exempting Surveying Services for National Guard Armory Site in Macon County, North Carolina, From the Provisions of Article 3D of Chapter 143 of the North Carolina General Statutes,” and (2) to take an amount not to exceed \$7,500 from contingency to pay for a survey of the armory site. Mrs. Carpenter told the board she would prepare a budget amendment in the amount of \$7,500 regarding this action. An

unexecuted copy of the resolution is attached (Attachment 4) and his hereby made a part of these minutes.

Chairman Tate declared a 10-minute recess at 8:20 p.m.

Chairman Tate called the meeting back to order at 8:31 p.m.

OLD BUSINESS

RESOLUTION EXEMPTING ENGINEERING SERVICES FOR GREENWAY CONNECTION PROJECT: Following a brief explanation by Mr. Roland, including notification of a quote for services from CEtech in the amount of \$4,500, upon a motion by Commissioner Beale, seconded by Commissioner Shields, the board voted unanimously to approve a “Resolution Exempting Engineering Services for Construction of Pathway Connecting Sidewalk on Existing Bridge No. 22 to the Greenway Below it, Project in Macon County, North Carolina, from the Provisions of Article 3D of Chapter 143 of the North Carolina General Statutes.” An executed copy of the resolution is attached (Attachment 5) and is hereby made a part of these minutes, along with a copy of the Agreement for Professional Engineering Services.

RESOLUTION EXEMPTING SURVEYING SERVICES FOR GREENWAY CONNECTION PROJECT: Again, following a brief explanation by Mr. Roland, including notification of a quote for services from Sprinkle Surveying in the amount of \$2,500, upon a motion by Commissioner Gillespie, seconded by Commissioner Shields, the board voted unanimously to approve a “Resolution Exempting Surveying Services for Construction of Pathway Connecting Sidewalk on Existing Bridge No. 22 to the Greenway Below it, Project in Macon County, North Carolina, from the Provisions of Article 3D of Chapter 143 of the North Carolina General Statutes.” An executed copy of the resolution is attached (Attachment 6) and is hereby made a part of these minutes, along with a copy of the proposal from Sprinkle Surveying.

DISCUSSION REGARDING SECOND AMENDMENT RESOLUTION: Commissioner Higdon spoke first regarding the Second Amendment resolution issue. He noted the board does not pass resolutions it doesn't review beforehand. He shared that he had spoken with Donnie Holden prior to the meeting to address some issues he was not comfortable with, particularly with the sheriff being mentioned several times, adding that as an elected official he cannot coerce another elected official. He explained that he does not have a problem with the resolution individually, and addressed the use of the word “sanctuary.” He said the board is not regulating or discussing gun control, and that he would “proudly support this [resolution] as an individual” and would gladly make a motion to support the latest, revised resolution, but since the

other board members haven't seen that most recent version, he could not make a motion. Commissioner Shields spoke next, and said he cannot support the word "sanctuary," and asked for a legal interpretation of a specific paragraph in the resolution Mr. Holden presented. He also questioned whether a vote of support for the resolution would violate the oath of office he took as a commissioner. Commissioner Beale said he was interested to see the updated version of the resolution Commissioner Higdon referenced, and to review the one Sheriff Holland had presented. Commissioner Beale said he looked forward to the conversation, noting that the board has received "a book full" of proposed resolutions, adding "I don't want to do something illegal." Commissioner Gillespie spoke next, saying that there is confusion tonight because there are multiple variations of the resolution out there. He said that every commissioner has already sworn to uphold the Second Amendment, and that the board would be reaffirming "what we've taken an oath to do." He went on to state that his job as a commissioner was to look at all of the available information. Chairman Tate went next, and said "All we want to do is make the best decision for Macon County," but also noted that he doesn't like dealing with issues like this. He described himself as a "minimalist," adding that he believes in our rights and that he grew up in a "hunting, gun-loving family." As a commissioner, he said he wasn't "put here to make emotional decisions," and he would study this issue "until I'm ready" to make a decision. He noted he had jotted down a number of questions," and had heard from the mayors of Franklin and Highlands about the potential impact from such a resolution on the tourism economy. "Personally, I am still weighing all of this," he concluded. The discussion then turned back to the most recent version of the proposed resolution from Mr. Holden, and Mr. Jones said the board "has to have something they can see to vote on." Commissioner Higdon asked if the resolution can be on the agenda for March. Chairman Tate said the revised resolution would be distributed to all board members, adding he would like to have the county attorney's opinion on the entire matter. He said the board should be "ready to move forward on it" at the next regular meeting. Discussion on this matter ended at 9:23 p.m., and Chairman Tate thanked all of those who remained to hear the board members' thoughts. No action was taken.

NEW BUSINESS

LEASE EXTENSION FOR USDA SERVICE CENTER: Mr. Roland explained that the board was being asked to consider the seventh in a series of lease extensions for the USDA Service Center, located at 189 Thomas Heights Road in Franklin. The lease extension would again be for three years, and would run from April 1, 2020 to March 31, 2023, with the county to receive annual rent in the amount of \$9,920. Mr. Roland noted that the terms of lease are the same as they were in 2017. Upon a motion by Commissioner Beale, seconded by

Commissioner Shields, the board voted unanimously to approve the lease amendment as presented, and a copy of the document is attached (Attachment 7) and is hereby made a part of these minutes.

ARCHITECTURAL SERVICES FOR MACON MIDDLE SCHOOL: Mr. Roland recalled that one of the “takeaways” from the board’s February 6, 2020 mid-year review meeting was to obtain answers to a number of questions regarding the scope of services for the proposed renovations to Macon Middle School (MMS). In response, Mark Sealy, a principal with the architectural firm of SGA NarmourWright, addressed those questions in an email to Mr. Roland and provided a revised scope of services and a revised contract for the board’s consideration. Mr. Sealy was present at the meeting and answered a number of additional questions from the board members. Following discussion, Commissioner Beale made a motion to approve the contract with SGA NarmourWright and authorized Mr. Roland to sign it. Commissioner Gillespie seconded the motion. Mr. Jones pointed out that a final contract document would still need to be produced. Mr. Roland said that in order to approve the contract, a total of \$1,037,268 would need to be appropriated from fund balance. Commissioner Beale agreed to add this item to his motion for approval, and Commissioner Gillespie in turn agreed to provide his consent to the second of the motion. The board voted unanimously to approve the motion as amended. A copy of the budget amendment is attached (Attachment 8) and is hereby made a part of these minutes.

RESOLUTION EXEMPTING SURVEYING SERVICES FOR MACON MIDDLE SCHOOL RENOVATION: Mr. Roland noted that the county will need an up-to-date survey for the MMS project, and noted that Sprinkle Surveying had provided a quote of \$7,500 to perform the work. He also pointed out that the adoption date shown on the proposed resolution was February 6, 2020, and would need to be corrected to February 11, 2020. Upon a motion by Commissioner Beale, seconded by Commissioner Gillespie, the board voted unanimously to approve a “Resolution Exempting Surveying Services for Macon Middle Grade School Renovation Project in Macon County, North Carolina, from the Provisions of Article 3D of Chapter 143 of the North Carolina General Statutes.” An executed copy of the revised resolution is attached (Attachment 9) and is hereby made a part of these minutes. Funding for the cost of the survey was included in the budget amendment listed in the preceding item.

AGREEMENT WITH “NO WRONG DOOR” FOR INMATE SERVICES AT MACON COUNTY JAIL: Sheila Jenkins with “No Wrong Door” told the board members that a proposed contract was included in the board’s agenda packet whereby No Wrong Door would deliver mental health and substance abuse services to those incarcerated in the Macon County Jail. She explained that the idea is that these individuals will go into treatment when they get out of

jail, and the program will help them re-enter the community. No Wrong Door is all about “peer support,” she said, adding that those involved want to do more, and that she was seeking the contract in order to provide more services. Commissioner Beale and Sheriff Holland offered a number of comments in support of the program. Mr. Roland pointed out that funding for the contract, which totals \$18,278, is in the sheriff’s department budget, adding that the Town of Franklin will soon be paying for half. Upon a motion by Commissioner Beale, seconded by Commissioner Shields, the board voted unanimously to approve the “Agreement to Provide Substance Abuse and Mental Health Services” as presented, an unexecuted copy of which is attached **(Attachment 10)** and is hereby made a part of these minutes.

U.S. FOREST SERVICE PLAN: Chairman Tate said that he and Mr. Roland had met with a team from the U.S. Forest Service (USFS) regarding draft plans for management of the Nantahala and Pisgah forests over the next 15 years. He noted the plans contain “all kinds of options” and that the amount of information available is “voluminous.” Mr. Tate suggested that a small group be formed, to include Jim Gray and Mike Wilkins, to provide the county with a “generalized recommendation” within the 90-day review period. The board agreed by consensus to the formation of the committee.

RESOLUTION EXEMPTING SURVEYING SERVICES FOR HENSON PROPERTY: Mr. Roland explained that a copy of the proposed resolution and an aerial photograph of the Henson property were in the board’s agenda packet. The property is located off Riverside Road south of Franklin, and the owners wish to give the tract, which has river frontage, to the county. Upon a motion by Commissioner Gillespie, seconded by Commissioner Beale, the board voted unanimously to approve a “Resolution Exempting Surveying Services for Henson Property Gift on Riverside Drive in Macon County, North Carolina, from the Provisions of Article 3D of Chapter 143 of the North Carolina General Statutes.” A copy of the resolution is attached **(Attachment 11)** and is hereby made a part of these minutes.

RESOLUTION REGARDING CONVENIENCE CENTER UPDATE PROJECT: Solid Waste Director Chris Stahl explained that he was looking to make improvements to the recycling convenience centers located in Junaluska and Scaly Mountain this coming spring. He said funds for the necessary surveying and engineering services were available in budget and had been approved by Mrs. Carpenter. Upon a motion by Commissioner Gillespie, seconded by Commissioner Shields, the board voted unanimously to approve a “Resolution Exempting Engineering Services for Convenience Center Improvements Project in Macon County, North Carolina, from the Provisions of Article 3D of Chapter 143 of the North Carolina General Statutes.” An executed copy of the resolution is attached **(Attachment 12)** and is hereby made a part of these minutes.

CONSENT AGENDA: Upon a motion by Commissioner Beale, seconded by Commissioner Shields, the board voted unanimously to approve the consent agenda as presented, which includes: (A) the minutes of the January 14, 2020 regular meeting; (B) budget amendment #164 for Planning, Permitting and Development to transfer \$1,673 from an insurance settlement for vehicle repairs; #165 for the Sheriff's Department to use a \$3,000 Macon County Crime Stoppers donation to go toward the cost of "The Sheriff App;" and #166 for the Sheriff's Department to transfer \$1,713 from an insurance settlement for vehicle repairs; (C) a request from Macon County Tax Collections Supervisor Teresa McDowell to order the tax office, per state statute 105-369, to collect any unpaid taxes owed to the county; (D) to approve tax releases for the month of January in the amount of \$197.80 and (E) received the monthly ad valorem tax collections report, for which no action was necessary.

APPOINTMENTS: (1) Nantahala Fire Department Relief Fund Trustees: Upon a motion by Commissioner Higdon, seconded by Commissioner Beale, the board voted unanimously to approve Katherine Bryant and Daniel Lopp as Relief Fund Board Trustees for Nantahala Volunteer Fire & Rescue. **(2) Economic Development Commission:** Upon a motion by Commissioner Beale, seconded by Commissioner Shields, the board voted unanimously to appoint Edward "Jerry" Moore, Jr. as the Town of Highlands representative to the Economic Development Commission, replacing Steve Chenoweth.

CLOSED SESSION: At 10:18 p.m., upon a motion by Commissioner Beale, seconded by Commissioner Shields, the board voted unanimously to go into closed session for the purpose of preserving the attorney-client privilege under NCGS 143-318.11(a)(3). At 11:01 p.m., upon a motion by Commissioner Beale, seconded by Commissioner Gillespie, the board voted unanimously to come out of closed session and return to open session.

ADJOURN: With no other business, at 11:02 p.m., upon a motion by Commissioner Gillespie, seconded by Commissioner Higdon, the board voted unanimously to adjourn.

Derek Roland
Ex Officio Clerk to the Board

Jim Tate
Board Chairman