

MINUTES OF THE MEETING OF THE BOARD OF COUNTY COMMISSIONERS HELD AT THE RUTHERFORD COUNTY OFFICE BUILDING IN THE COUNTY COMMISSIONERS' MEETING ROOM ON SEPTEMBER 2, 2008, AT 6:00 P.M.

**PRESENT: CHIVOUS BRADLEY, CHAIRMAN
PAUL MCINTOSH, VICE CHAIRMAN
MARGARET HELTON
CHARLES HILL
BRENT WASHBURN**

* * * * *

CALL TO ORDER\INVOCATION\PLEDGE OF ALLEGIANCE

Chairman Bradley called the meeting to order and delivered the invocation. Commissioner Hill led in the Pledge of Allegiance.

ADOPTION OF AGENDA

Chairman Bradley read the amendments to the agenda. Commissioner Hill made a motion to adopt the agenda as amended. Commissioner Washburn seconded the motion. The motion was unanimously approved. Additions to the agenda were:

- Comprehensive Economic Development Strategy of IPDC
- Proclamation for Fall Litter SWEEP
- Closed Session – PROPERTY ACQUISITION G.S. 143-318.11(A)(5)

PUBLIC HEARING\INDUSTRIAL DEVELOPMENT GRANT

Chairman Bradley opened the Public Hearing to listen to comments regarding the granting of industrial development grants to Sky America Service Center, Inc. pursuant to NC General Statute 158-7.1.

Chairman Bradley asked Mr. Tom Johnson, Director of the Economic Development Commission, to report on the proposed incentive grant. Mr. Johnson stated that, if approved, this would be the largest project as far as the number of potential jobs ever brought to Rutherford County by the EDC. He called on Don Thompson, CEO of Sky Catcher Communications, who described the partnership that his company has entered into with Global Solutions and Stanford Financial Group to establish a communications center in the former Stonecutter Mills plant in Spindale. There would be three elements in this operation: (1) a call center, (2) a high security call center within the larger call center, and (3) corporate headquarters. It is projected that the facility would have a cafeteria, a day care center and on-site medical care. It would eventually operate with three shifts, with 500 fulltime positions on first shift, 300-350 on the second shift and 150-200 on the late shift. In addition to the call center employees, there would be additional support personnel

Vice Chairman McIntosh noted that the forecast is for 1,100 jobs in 4-5 years. He questioned whether this was an optimistic projection or a realistic number. Mr. Thompson gave assurances that the number is realistic, stating that the numbers are possibly low. In 2008 they will be working to retrofit the building and arranging with Isothermal Community College for job training. In 2009 they will start hiring.

Commission Washburn extended a welcome to the new company.

Chairman Bradley asked for questions or comments from the public. Ramona Laughter identified herself as a new resident of the county and asked whether there would be a microwave transmitter. Mr. Thompson stated that the operation will not be using microwave technology.

Chairman Bradley declared the public hearing closed.

Mr. Johnson explained that the industrial package being offered is based on slightly over \$3 million in investments and the number of jobs created. It is \$25,000 in incentives over a five-year period and is contingent on actual performance.

Vice Chairman McIntosh made a motion to approve the incentive agreement between Rutherford County and Sky America Service Center, Inc. Commissioner Washburn seconded the motion. The motion was unanimously approved.

Cindy Messer from the Department of Commerce spoke and presented a state flag on behalf of Governor Easley and the State to express appreciation that North Carolina had been chosen for the facility.

PUBLIC COMMENTS

Chairman Bradley opened the floor for public comments.

Mr. Carl Ramsey requested that an EMS station be located in Henrietta, which would decrease the time for emergency response to medical situations.

Mr. Bill Eckler spoke about the comparison of the proposed county building plan with the school building program of a number of years ago. He expressed concern that employment was higher then and the dollar was stronger. He opposed passing a tax burden on to our children and grandchildren. Until the economy strengthens, he believes only projects that are necessary should be considered.

Mr. Mike Dalton asked the Commissioners to look into permit fees that have been raised from \$50 to \$75. The fee is now higher than what he charges for a service call. He said the inspection department collects a substantial amount of money every year and he wondered where that money is going.

CONSENT AGENDA

Commissioner Hill made a motion to approve the consent agenda. Commissioner McIntosh seconded the motion. The motion was unanimously approved.

Minutes

By consent, the minutes of the August 4, 2008, meeting was approved.

Tax Refunds and Releases

By consent, tax refunds of \$1,996.15 and tax releases greater than \$100 totaling \$1,303.48 as outlined by Tax Administrator Kep Kepley were accepted. Tax releases of amounts less than \$100, which totaled \$2,587.24, were submitted by the Finance Office. (A copy of these tax refunds and releases is in the Minute Book.)

Comprehensive Economic Development Strategy of IPDC

By consent, the Comprehensive Economic Development Strategy of Isothermal Planning and Development Commission was approved.

FARM MUSEUM\BUDGET AMENDMENT

Following conversations with Wilbur Burgin and other members of the Farm Museum, who had provided information in writing about the long term operation of the museum, Commissioner Hill recommended that the request for \$4,000 that he had previously opposed be approved. In addition, he recommended that a grant application process be put in place so that local organizations seeking funding from the county can be evaluated by a committee established for that purpose.

Commissioner Hill made a motion that \$4,000 from the 2008-2009 budget be approved for the Farm Museum. Commissioner Washburn seconded the motion.

Commissioner McIntosh reiterated his opinion that organizations requesting county funding should be required to seek grant money first.

Commissioner Helton agreed that local organizations should not depend on the county for funding but expressed her support for the unique mission of the farm museum in light of the agricultural heritage of the county.

The motion was unanimously approved.

Commissioner Hill made a motion that in the next budget cycle a designated amount of money be set aside for support of local organizations and that a committee be set up to review requests and make recommendations to the commissioners for awarding of funds. Commissioner Washburn seconded the motion. The motion was unanimously approved.

LEGISLATIVE GOAL\NCACC\SPECIAL ASSISTANCE TO ADULTS

Commissioner Hill made a motion to again submit to the NC Association of County Commissioners a proposed legislative goal to phase out county responsibility for funding Special

Assistance to Adults. Vice Chairman McIntosh seconded the motion. The motion was unanimously approved.

PROCLAMATION\2008 LITTER SWEEP

Commissioner Helton made a motion to approve the proclamation recognizing September 20 through October 4, 2008, as Litter Sweep time. Commissioner Hill seconded the motion. The motion was unanimously approved.

A PROCLAMATION

WHEREAS, the North Carolina Department of Transportation organizes an annual fall statewide roadside cleanup to ensure clean and beautiful roads in North Carolina; and

WHEREAS, the fall 2008 LITTER SWEEP roadside cleanup will take place September 20 through October 4, 2008, and the North Carolina Department of Transportation encourages local governments and communities, civic and professional groups, businesses, churches, schools, families and individual citizens to participate in the Department of Transportation cleanup by sponsoring and organizing local roadside cleanups; and

WHEREAS, Adopt-A-Highway volunteers, Department of Transportation employees, Department of Correction inmates and community service workers, local government agencies, community leaders, civic and community organizations, businesses, churches, schools, and environmentally concerned citizens conduct annual local cleanups during LITTER SWEEP and may receive certificates of appreciation for their participation; and

WHEREAS, the great natural beauty of our state and a clean environment are sources of great pride for all North Carolinians, attracting tourists and aiding in recruiting new industries; and

WHEREAS, the cleanup will increase awareness of the need for cleaner roadsides, emphasize the importance of not littering, and encourage recycling of solid wastes; and

WHEREAS, the 2008 fall cleanup will celebrate the 20th anniversary of the North Carolina Adopt-A-Highway program and its 6,000 volunteer groups that donate their labor and time year round to keep our roadsides clean; and

WHEREAS, the LITTER SWEEP cleanup will be a part of educating the children of this great state regarding the importance of a clean environment to the quality of life in North Carolina;

NOW, THEREFORE BE IT RESOLVED that the Rutherford County Board of Commissioners does proclaim September 20 through October 4, 2008, as LITTER SWEEP time in Rutherford County and encourages all citizens to take an active role in making their communities cleaner.

Adopted this the 2nd day of September, 2008.

BUDGET AMENDMENTS

Finance Director Scherer presented and explained the budget amendments.

Commission Hill made a motion to approve the budget amendments. Vice Chairman McIntosh seconded the motion. The motion was unanimously approved.

BUDGET AMENDMENTS – SEPTEMBER 2, 2008

	Expense	Revenue
GENERAL FUND		
Governing Body Lease Purchase Capital*	\$ 4,791	
IT Telecommunication Lease Purchase Capital*	\$ 17,536	
IT Hardware Lease Purchase Capital*	\$ 90,039	
IT Software Lease Purchase Capital*	\$ 306,743	
04-05 Cultural Resources Grant**	\$ 6,322	
St Grant 225 Yr Anniversary**	\$ 2,747	
Sheriff Project Lifesaver**	\$ 1,284	
Sheriff Equipment/Supplies Purchased with Seizure Funds**	\$ 24,119	
Sheriff Helicopter Expense**	\$ 1,113	
Sheriff Uniform & Equipment	\$ 6,765	
Detention Center Part Time Salaries	\$ 6,765	
Senior Center Purchase with Donations**	\$ 3,225	
DSS Special Children Adoption Funds**	\$ 8,484	
EDC Advertising***	\$ 7,000	
Recreation Cultural Heritage Capital***	\$ 5,612	
Recreation Cultural Heritage Miscellaneous Programs***	\$ 3,480	
Airport Maintenance Fuel Tank	\$ 13,500	
ABC Fds for Drug Court****	\$ 21,854	

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Fund Balance Appropriated		\$ 531,379
*The above items were financed through lease purchase in previous years. These represent unexpended funds at June 30 '08		
**The above items are from grants or other restricted sources. These represent unexpended funds from these sources at June 30 '08 which must be rebudgeted		
***Represent open Purchase Orders at June 30 for ongoing projects. Due to amounts involved we request that these unexpended balances be carried over to FY 2008-09		
****In FY 2007-08, the Board voted to release ABC collections from FY 04-05, 05-06 and 06-07 to fund the Drug Court.		
The Drug Court respectfully requests that they be allotted the FY 07-08 funds as well. The amount shown represents the balance of the funds released last year (\$9,825) plus the collections from FY 07-08 (\$12,569).		
American Battlefield Protection Professional Services	\$ 12,990	
American Battlefield Protection Grant		\$ 12,990
*Re-appropriate remaining grant funds.		
Building Projects	\$ 93,785	
Transfer from Building Fund		\$93,785
*Re-appropriate uncompleted Building Fund projects from FY 2007-08.		
Criminal Justice Partnership Program Expenses	\$ 2,428	
NC Dept of Correction CJPP Grant		\$ 2,428
*additional funding received		
Project Lifesaver Expenses	\$ 13,150	
Project Lifesaver Donations		\$ 13,150
*donations received		

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Sheriff - Uniforms & Equipment	\$ 10,200	
Sale of Weapons Court Ordered for Official Use		\$ 10,200
*proceeds received from the sale of weapons turned over to the Sheriff for official use		
Drug Buy Money	\$ 350	
Other Miscellaneous Revenue		\$ 350
*funds from Clerk of Superior Court for restitution		
Sherriff - Equip/Supplies Purchased with Seizure Money	\$ 5,856	
Sheriff Drug Seizure Funds		\$5,856
E911 FUND		
Part time Salaries	\$(15,288)	
Private Road Signs	\$(15,000)	
Fuel/Vehicle Maintenance	\$ (2,700)	
Private Road Sign Payments		\$2,000
Fund Balance Appropriated		\$30,988
MAPPING FUND		
Part time Salaries	\$ 15,288	
Private Road Signs	\$ 15,000	
Fuel/Vehicle Maintenance	\$ 2,700	
Private Road Sign Payments		\$ 2,000
Fund Balance Appropriated		\$ 30,988
*Amendments to the E911 and Mapping Funds are necessary due to		

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recent changes in 911 eligibility requirements issued by the State		
911 Board. Sign Maintenance is no longer an eligible use of 911 funds. Therefore, the above expenditures/revenues must be moved		
from the E911 Fund to the Mapping Fund.		
BUILDING FUND		
Transfer to General Fund	\$ 93,785	
Fund Balance Appropriated		\$ 93,785
*Re-appropriate uncompleted Building Fund projects from FY 2007-08.		
CAPITAL PROJECTS FUND		
Rutherfordton Elem Construction Contract	\$(86,547)	
Contingency	\$ 86,547	
*Change Order to Rutherfordton Elem reducing contract price.		
TDA FUND		
Reserve for Future Projects	\$ (6,250)	
Capital Outlay - Equipment/Furniture	\$ 6,250	
*Transfer funds set aside in reserve for office setup for new PR position and part-time position		

WORK FIRST/COMMITTEE

Commissioner Washburn made a motion to appoint Commissioner Hill to serve on the planning committee that will develop the county Work First plan for 2010-2011. Commissioner McIntosh seconded the motion. The motion was unanimously approved.

Commissioner Hill made a motion to approve the members of the planning committee. Commissioner McIntosh seconded the motion. The motion was unanimously approved.

Tonya Boykins
Sue Ellen Camden-Lee
John Carroll

WIA, Joblink Career Center Coordinator
DSS, Work First Employment Social Worker
DSS, Director

Jackie Godlock	NC Vocational Rehabilitation
Denise Clemmer	DSS, Social Worker Supervisor
Kelly Hudson	Family Resources, PATH Shelter
Larry Brown	Rutherford Life Services
Mark Snyder	Rutherford County Schools
Sandra Miller	Employment Security Commission, Manager
Donald Ruess	Western Highlands Area Authority
Bill Robertson	Isothermal Planning and Development
Helen White	Rutherford, Polk, McDowell Health Department
Jacqueline Hampton	DSS, Board Member

Commissioner Hill made a motion to designate Rutherford County as a Standard County under the Work First Block Grant. Commissioner Washburn seconded the motion. The motion was unanimously approved.

BUILDING PROGRAM

Commissioner Washburn made a motion to approve the proposed plan for construction of county buildings. Vice Chairman McIntosh seconded the motion.

Manager Condrey noted that as each individual building project comes up, it will be presented in detail to the Commissioners for their approval. Chairman Bradley observed that the commissioners can at any future date reorder the priorities of the plan.

The motion was unanimously approved.

CLOSED SESSION/ATTORNEY-CLIENT PRIVILEGE\G.S. 143.318.11(a)(3)/PROPERTY ACQUISITION G.S. 143-318.11(A)(5)

Vice Chairman McIntosh made a motion to go into closed session to discuss attorney-client matters and property acquisition. Commissioner Hill seconded the motion. The motion was unanimously approved.

7:00 P.M. – The Board went into Closed Session

7:25 P.M. – The Board returned to regular session.

CONTRACT/MARVIN AND REULEEN WEASE

Commissioner Helton made a motion to approve an amendment for a 60 day extension for Marvin and Reuleen Wease to respond to a proposal in connection with their complaint about construction of their house. Commissioner Washburn seconded the motion. The motion was unanimously approved.

RESOLUTION\GREY ROCK ROAD CONSTRUCTION BONDS

Vice Chairman McIntosh made a motion to approve a resolution for the recall of surety bonds against Grey Rock Development. Commissioner Washburn seconded the motion. The motion was unanimously approved.

RESOLUTION

WHEREAS, Rutherford County and LR Buffalo Creek, LLC, as the developer of a certain subdivision located in Rutherford County and commonly referred to as "Grey Rock at Lake Lure" (the "Subdivision"), entered into the following Performance Guarantee Agreements:

- (a) Performance Guarantee Agreement dated September 24, 2004 for Phase 1A of the Grey Rock at Lake Lure Subdivision (as modified and amended, the "Phase 1 Guarantee"); and
- (b) Performance Guarantee Agreement dated June 6, 2005 for Phase 2A and Phase 2B of the Grey Rock at Lake Lure Subdivision (as modified and amended, the "Phase 2A and Phase 2B Guarantee");

AND WHEREAS, LR Buffalo Creek, LLC obtained the following surety bonds issued by Bond Safeguard Insurance Company (collectively the "Bonds") to secure LR Buffalo Creek, LLC's obligations under the Performance Guarantee Agreements, including, without limitation, the obligation to install roadways within the Subdivision in compliance with Article IX, Section 901 of the Rutherford County Code.

- (a) Bond #5025435 in the amount of \$3,867,577.00 for Phase 1 Section a; and
- (b) Bond #5025436 in the amount of \$3,998,681.00 for Phase 1 Section b; and
- (c) Bond #5025437 in the amount of \$3,080,951.00 for Phase 1 Section c; and
- (d) Bond #5025438 in the amount of \$1,573,252.00 for Phase 1 Section d; and
- (e) Bond #5025432 in the amount of \$6,146,510.00 for Phase 2, Section a; and
- (f) Bond #5025433 in the amount of \$1,663,173.00 for Phase 2, Section b; and
- (g) Bond #5025434 in the amount of \$6,074,198.00 for Phase 2, Section c.

Total: \$26,404,342.00

(Copies of the Bonds are incorporated herein by reference as if fully set forth);

AND WHEREAS, pursuant to the "Third Addendum to Performance Guarantee Agreement Greyrock-Phase I Sections A, B, and C and Second Addendum to Performance Guarantee Agreements Greyrock: Phase II Sections A and B and Phase III, Section A" dated January 7, 2008 (the "Third Addendum"), LR Buffalo Creek, LLC was obligated to complete improvements on Subdivision Phase 1, Sections A, B, and C, Phase 2 Sections A and B, and Phase 3 Sections A" no later than June 30, 2008 which LR Buffalo Creek, LLC failed to do;

AND WHEREAS, the Third Addendum provides that in the event the June 30, 2008 deadline is missed, "then the Rutherford County Board of Commissioners shall hve the option, in its sole discretion, to call the surety bonds for all sections for which construction is not complete regardless of whether the deadline has passed for that particular section;"

AND WHEREAS, the construction is not complete on any section of the Subdivision;

AND WHEREAS, LR Buffalo Creek, LLC is in default of its obligations under the above referenced Phase 1 Guarantee Agreement and the Phase 2A and Phase 2B Guarantee Agreement;

BE IT THEREFORE RESOLVED, that based upon the foregoing, the Rutherford County Board of Commissioners hereby calls each and every one of the Bonds; and

BE IT ADDITIONALLY RESOLVED THAT County Manager John Condrey is authorized to forward this Resolution to Bond Safeguard Insurance Company and proceed with the necessary actions to enforce Rutherford County's rights as to the Bonds.

Adopted this the 2nd day of September, 2008.

Commissioner Washburn made a motion to approve a resolution for the recall of surety bonds against Grey Rock Development. Vice Chairman McIntosh seconded the motion. The motion was unanimously approved.

RESOLUTION

WHEREAS, Rutherford County and LR Buffalo Creek, LLC, as the developer of a certain subdivision located in Rutherford County and commonly referred to as "Grey Rock at Lake Lure" (the "Subdivision"), entered into the following Performance Guarantee Agreements:

- (c) Performance Guarantee Agreement dated November 7, 2005 for Phase 3A and Phase 3B of the Grey Rock at Lake Lure Subdivision (as modified and amended, the "Phase 3A and Phase 3B Guarantee"); and
- (d) Performance Guarantee Agreement dated January 9, 2006 for Phase 3C of the Grey Rock at Lake Lure Subdivision (as modified and amended, the "Phase 3C Guarantee");

AND WHEREAS, LR Buffalo Creek, LLC obtained the following surety bonds issued by AMS Surety Holdings Corporation (collectively the "Bonds") to secure LR Buffalo Creek, LLC's obligations under the Performance Guarantee Agreements, including, without limitation, the obligation to install roadways within the Subdivision in compliance with Article IX, Section 901 of the Rutherford County Code.

- (h) Bond #07-FFC-30142401NC in the amount of \$4,335,957.00 for Phase 3A; and
- (i) Bond #07-FFC-30142402NC in the amount of \$5,409,068.00 for Phase 3B, Section a; and
- (j) Bond #07-FFC-30142403NC in the amount of \$2,201,922.00 for Phase 3B, Section b; and
- (k) Bond #07-FFC-30142404NC in the amount of \$1,142,930.00 for Phase 3C, Section a; and
- (l) Bond #07-FFC-30142405NC in the amount of \$2,285,860.00 for Phase 3C, Section b.

Total: \$15,375,737.00

(Copies of the Bonds are incorporated herein by reference as if fully set forth);

AND WHEREAS, pursuant to the "Third Addendum to Performance Guarantee Agreement Greyrock-Phase I Sections A, B, C and Second Addendum to Performance Guarantee Agreements Greyrock-Phase II Sections A and B and Phase III, Section A" dated January 7, 2008 (the "Third Addendum"), LR Buffalo Creek, LLC was obligated to complete improvements on "Subdivision Phase 1, Sections A, B and C, Phase 2 Sections A and B, and Phase 3 Section A" no later than June 30, 2008 which LR Buffalo Creek, LLC failed to do;

AND WHEREAS, the Third Addendum provides that in the event the June 30, 2008 deadline is missed, "then the Rutherford County Board of Commissioners shall have the option, in its sole discretion, to call the surety bonds for all sections for which construction is not complete regardless of whether the deadline has passed for that particular section;"

AND WHEREAS, the construction is not complete on any section of the Subdivision;

AND WHEREAS, LR Buffalo Creek, LLC is in default of its obligations under the above referenced Phase 3A and Phase 3B Guarantee Agreement and the Phase 3C Guarantee Agreement.

BE IT THERERFORE RESOLVED, that based upon the foregoing, the Rutherford County Board of Commissioners hereby calls each and every one of the Bonds; and

BE IT ADDITIONALLY RESOLVED THAT County Manager John Condrey is authorized to forward this Resolution to AMS Surety Holdings Corporation and proceed with the necessary actions to enforce Rutherford County's rights as to the Bonds.

Adopted this the 2nd day of September, 2008.

ADJOURNMENT

Chairman Bradley declared the meeting adjourned.

Adjournment at 7:30 p.m.

Chairman, Board of Commissioners

Vice Chairman, Board of Commissioners

Attest:

Clerk, Board of Commissioners