

### **February 13, 2007– Regular Session**

The Swain County Board of Commissioners held a Regular Session on Tuesday, February 13, 2007. Present were Chairman Jones, Vice-Chair Lindsay, Commissioner Monteith, Commissioner Moon and Commissioner Carson.

Chairman Jones called the regular session to order. Commissioner Carson led with prayer.

### **Adjust Agenda**

Commissioner Monteith made a motion to adjust the agenda to better facilitate the meeting. Commissioner Carson seconded the motion. A vote was unanimous.

### **DSS Report**

Tammy Cagle submitted the following report:

RE:Quarterly Report

Our Adult Services Unit is planning a fund raiser in order to purchase needed Items for our adult guardianship cases. They are also planning on providing Easter baskets to all Mountain View Manor residents and Autumn Wind residents.

The Crisis Intervention Program began releasing crisis funding on October 24th. As to date we have assisted one-hundred three elderly and disabled households in the amount of \$30,067.98. Share The Warmth funding was also released on October 24<sup>th</sup>. Under this program we have assisted seventy-five families in the amount of \$19,235.36.

Between November 8th and 17th, forth-seven applications were taken for the Low Income Energy Assistance Program. All applications were approved and along with eligible Foodstamp households, will receive an energy check In February.

The amount of these checks is based on income, household size, the primary source of heat and how many households across the state apply. The check amounts will range from \$42.00 up to \$103.00.

We have bee informed by our Medicaid State representative that a new Adult Medicaid Program will begin July 1, 2007. It will be a program for Medicaid for the working disabled. At this time, we are uncertain if this will require a new Medicaid position.

I have received a letter from the State of North Carolina, Office of State Personnel informing all agencies of reclassifications of Adult Medicaid Positions dealing with long Term Care. These positions must be reclassified by July 1, 2007.

We continue to be out of compliance with State requirements of office space. With continuance of growth we are in need of expansion. Having eight Social Workers and seven Income Maintenance Caseworkers having to work in cubic les, we are currently at risk for a potential lawsuit for breaking confidentiality or the possibility of loosing state funds for being out of compliance of required office space. According to state guidelines each employee who meets with clients is required to have an office space of 8 X 8 office area. We currently have to meet with clients in the kitchen or ask an employee to use their office when meeting with a client.

I would like to thank each of you for all of your support.

### **Public Comment**

Citizens listed on the following sign in sheet expressed their concerns during this regular session:

Swain County Commissioners Meeting

February 13, 2007

Please sign in if you wish to speak during the Public Comment Period concerning an item on this agenda.

\*\*You will be allowed approximately 3 minutes to speak.\*\*

Name	Address/Phone #	Subject	Or
Vir, DeBord	PO Box 1296 BE, NC 28713 488-3190		
Wayne Kirkland	499-5760	Land Planning	✓
Ann Hewelley			✓
Verna Kirkland			✓
Ronald Hart	601 Walnut Cove Ridge	Cochran Pay	✓

- Virginia DeBord/Planning Board concerns/Requests fairness in appointments of boards.
- Wayne Kirkland, Developer from Jackson County/Says no to moratorium.
- Verna Kirkland/Planning Board concerns
- Boyd Gunter/Planning Board concerns/Has concerns regarding steep slope development, high rise development on mountain slopes, is concerned for the safety of citizens in the county and expresses the need of a moratorium to stop development until ordinances are in effect.
- Ron Hart/Sheriff's Salary/He does not agree with a salary increase for the Sheriff.

**Tax Collector's Report**

Peggy Hyde, Tax Administrator, presented a report to the Board for the month of January. Ad-Valorem tax receivable was reported at \$3,862,301.24. There was \$770,323.38 collected for the month. Total collections year to date were \$4,312,918.22. The tax collection percentage year to date was 16.35%. Total releases were \$7,637.24, total discoveries were \$3,219.50 and total refunds were \$346.86. Commissioner Moon made a motion to approve the Tax Collector's report as presented. Commissioner Carson seconded the motion. A vote was unanimous.

**DOT Secondary Road Resolution**

Commissioner Carson made a motion to approve the following resolution:

The Board of Commissioners for the County of **Swain**, North Carolina, met in regular session at the **Swain County Administration Building, Bryson City, NC**, the usual place of meeting, at **6:33 PM, on February 13, 2007.**

Present: Glenn Jones, Genevieve Lindsay, David Monteith, Phil Carson and Steve Moon

Absent:

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Chairman **Glenn Jones**, introduced representatives of the Department of Transportation and a resolution recommending a program of total needs for Secondary Road improvements in **Swain** County. This program details the proposed expenditure of Secondary Road Funds for period Fiscal Year 2007. The proposed program recommends that the funds be expended in the following manner, **subject to availability of funding, right-of-way, and environmental review:**

<u>ELEMENT</u>	<u>AMOUNT</u>	<u>PERCENT</u>
Supplement Prior Fiscal Year Projects		
Trust Fund	\$ 148,917	
Highway Fund	\$ 33,327	
Subtotal	\$ 182,244	12.1%
 Paving of Unpaved Roads (see attached list)		
Trust Fund	\$ 230,000	
Subtotal	\$ 230,000	15.2%
 Paved Road Improvements (see attached list)		
Trust Fund	\$ 500,000	
Highway Fund	\$ 250,000	
Subtotal	\$ 750,000	49.7%
 Preliminary Engineering		
Surveying and Right of Way Acquisitions		
Highway Fund	\$ 171,876	
Subtotal	\$ 171,876	11.4%
 Spot Stabilization, Safety Improvements		
Curve Widening, Drainage Improvements		
Road Additions, etc.		
Trust Fund	\$ 93,245	
Highway Fund	\$ 82,535	
Subtotal	\$ 175,780	11.6%
 <b><u>Totals</u></b>	 <b>\$1,509,900</b>	 <b>100%</b>

Commissioner Carson moved that the foregoing resolution and attached program of total needs for Secondary Roads in **Swain** County be approved.

Ayes: 5

Noes: 0

Commissioner Monteith seconded the motion. A vote was unanimous.

**Watkins Road – request to be added to the Secondary Roads**

The following petition was submitted requesting the Board forward a resolution to have 3/10 mile of Watkins Road be added to the NCDOT Secondary Roads System:

NORTH CAROLINA STATE DEPARTMENT OF TRANSPORTATION  
DIVISION OF HIGHWAYS PETITION

North Carolina  
County of Suwan

Petition request for (check one) Addition to State System ()  
Paving ( )  
Maintenance Improvement ( )

We the undersigned, being property owners on Watkins R.O.  
(Describe or give local name or  
Secondary Road Number) in Suwan County do hereby request the  
Division of Highways of the Department of Transportation to \_\_\_\_\_  
the above-described road.

We further advise that the road requested to Add to system is 3/10 miles  
in length and at the present time there are 8 occupied homes located on  
the road and having entrances into the road.

Finally, we agree to dedicate to the Division of Highways a right-of-way of  
the necessary width to construct the road to the minimum construction standards  
required by the Division of Highways. This right-of-way will extend the entire  
length of the road that is requested to be improved and will include the necessary  
areas outside the right-of-way for cut and fill slopes and drainage. Also, we  
agree to dedicate additional right-of-way in the public road intersections for  
sight distance and design purposes and to execute said right-of-way agreement  
forms that will be submitted to us by representatives of the Division of Highways.

REMARKS

Four copies of recorded subdivision plat enclosed if applicable

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PROPERTY OWNERS

NAME	MAILING ADDRESS	TELEPHONE
The Division of Highways should contact the first petitioner listed below:		
<u>Howard / Carol Horton</u>	<u>568 <sup>Bryson City</sup> Watkins Rd. BC</u>	<u>828-488-0162</u>
<u>Chester &amp; Drama Watkins</u>	<u>315 Watkins Rd. BC</u>	<u>" 488-3477</u>
<u>"</u>	<u>443 Watkins Rd BC</u>	<u>" 488-3477</u>
<u>"</u>	<u>445 Watkins Rd BC</u>	<u>" 488-3477</u>
<u>Diane Watkins Gantt</u>	<u>480 Watkins Rd BC</u>	<u>" 488-2969</u>
<u>"</u>	<u>490 Watkins Rd BC</u>	<u>" 488-2969</u>
<u>David Watkins</u>	<u>480 Watkins Rd BC</u>	<u>" 488-3907</u>
<u>Lloyd Watkins</u>	<u><del>480</del> 480 Watkins Rd</u>	<u>506 3765</u>

Revised Form SR-1 (5-83) All previous forms obsolete

Chairman Jones made a motion to approve the following resolution to be forwarded to NC DOT for consideration:

NORTH CAROLINA STATE DEPARTMENT OF TRANSPORTATION  
REQUEST FOR ADDITION TO THE STATE MAINTAINED SECONDARY ROAD  
SYSTEM

North Carolina

County of Swain  
Road Description Watkins Road (3/10 mile at the end)

WHEREAS, the attached petition has been filed with the Board of County Commissioners of the County of Swain requesting that the above described road, the location of which has been indicated in red on the attached map, be added to the Secondary Road System; and

WHEREAS, the Board of County Commissioners is of the opinion that the above described road should be added to the Secondary Road System.

NOW, THEREFORE, be it resolved by the Board of County Commissioners of the County of Swain that the Division of Highways is hereby requested to review the above described road, and to take over the road for maintenance if it meets established standards and criteria.

#### CERTIFICATE

The foregoing resolution was duly adopted by the Board of Commissioners of the County of Swain at a meeting on the 13<sup>th</sup> day of February, 2007.

Vice-Chair Lindsay seconded the motion. A vote was unanimous.

#### **2006 Building Codes**

Commissioner Carson made a motion to adopt the 2006 Building Codes. Commissioner Moon seconded the motion. A vote was unanimous.

#### **Planning Board Resolution**

Commissioner Monteith made a motion to adopt the following resolution establishing a Planning Board:



**Resolution # 910-2007-1**

### **STATE OF NORTH CAROLINA COUNTY OF SWAIN**

#### **“RESOLUTION ESTABLISHING AN ADVISORY PLANNING BOARD”**

**WHEREAS**, Swain County’s population, both seasonal and full time residents, has increased significantly over the past few years creating a need to study the functions of Swain County;

**WHEREAS**, the Swain County Board of Commissioners desires to study the impact this growth has and will continue to have on Swain County and its citizens, including but not limited to economic impact, land development, job growth, and future required governmental services;

**WHEREAS**, the Swain County Board of Commissioners believes it is critical to the planning that a citizen board be established to study the growth impacts upon Swain County;

**WHEREAS**, the planning board’s duties and responsibilities shall be as directed by the Board of Commissioners and shall be only advisory in nature.

**WHEREAS**, there shall be eleven (11) members of the planning board and each member shall be appointed by and serve at the pleasure of the Swain County Board of Commissioners. Nominations for all members shall be by completing an application as required, and selection and appointment of all members shall be in the sole discretion of the Swain County Board of

Commissioners. Each Commissioner shall have the right and opportunity to appoint two (2) members of the planning board based upon the nominations received as referenced hereinabove. In the event any Commissioner does not appoint one or both members he/she is entitled to appoint by the date designated by the majority of the Board of Commissioners, then and in that event, the entire Board of Commissioners shall appoint such positions by majority vote. Additionally, the County Attorney shall serve in an ex officio capacity;

**WHEREAS**, the terms of the Board member will be staggered as follows: One of the two members appointed by each Commissioner shall serve a four year term and the other shall serve a two year term with the Commissioner appointing such member designating which term his or her appointees shall serve.

All Members, excluding the County Attorney in the ex officio capacity, are limited to two consecutive full terms.

Vacancies shall be filled for any unexpired portion of a term in the same manner as the initial appointments as set out above.

**WHEREAS**, a chairperson of the Planning Board shall be elected annually by the majority vote of the Planning Board Members and the County Attorney shall serve as secretary to the board.

**WHEREAS**, a member may be removed from office by the County Board of Commissioners for:

- (1) Commission of a felony or other crime involving moral turpitude;
- (2) Violation of a State law governing conflict of interest;
- (3) Violation of a written policy adopted by the County Board of Commissioners;
- (4) Habitual failure to attend meetings;
- (5) Conduct that tends to bring the office into disrepute; or
- (6) Other cause.

A board member may be removed only after the member has been given written notice of the basis for removal and has had the opportunity to respond.

**WHEREAS**, the board shall meet at least quarterly or as otherwise directed by the County Board of Commissioners.

**WHEREAS**, the members shall be compensated as determined by the Board of Commissioners.

**WHEREAS**, each member must be a full time resident of Swain County, North Carolina.

**NOW, THEREFORE, BE IT RESOLVED** by the Swain County Board of Commissioners that a planning board be developed for the purposes and means set out above.

This the 13<sup>th</sup> day of February, 2007

Commissioner Carson seconded the motion. A vote was unanimous.

#### **Planning Board Appointments**

Chairman Jones made a motion to approve the following nominations to serve on the Advisory Planning Board:

Commissioner Monteith nominated Mark Davis 2 year and John Herrin 4 year  
Vice-Chair Lindsay nominated Sara Robinson 2 year and David Ennis 4 year  
Chairman Jones nominated Johnny Lackey 2 year and Jonathan Douthit 4 year  
Commissioner Moon nominated John Seay 2 year and Mike Clapsaddle 4 year  
Commissioner Carson nominated Phillip Smith Jr 2 year and Jeff Herron 4 year  
Commissioner Carson seconded the motion. A vote was unanimous.

#### **TDA appointment**

Chairman Jones made a motion to appoint Ron Larock to serve on the TDA board with his term ending June 30, 2010. Commissioner Moon seconded the motion. A vote was

unanimous.

**Consider approval of resolution – intent to reimburse – TDA**

Commissioner Carson made a motion to adopt the following resolution:



**Resolution #930-2007-03**

**NORTH CAROLINA  
COUNTY OF SWAIN**

**“DECLARATION OF OFFICIAL INTENT TO REIMBURSE”**

**BE IT HEREBY RESOLVED** that the County of Swain, N.C. does hereby adopt the following declaration (the “Declaration”) of official intent to reimburse.

This declaration is made pursuant to the requirements of the United States Treasury Regulations Section 1.150-2 and is intended to constitute a Declaration of Official Intent to Reimburse under such Treasury Regulations Section.

The undersigned is authorized to declare the official intent of the County of Swain, North Carolina (the “Issuer”) with respect to the matters contained herein.

1. **Expenditures to be Incurred.** The Issuer anticipates incurring expenditures (the “Expenditures”) to purchase equipment.
2. **Plan of Finance.** The Issuer intends to finance the costs of the real property located on Main Street, Bryson City with the proceeds of debt to be issued by the Issuer (the “Borrowing”) the interest on which is to be excluded from gross income for Federal income tax purposes.
3. **Maximum Principal Amount of Debt to be Issued.** The maximum principal amount of the Borrowing to be incurred by the Issuer to finance the real property is \$550,000.
4. **Declaration of Official Intent to Reimburse.** The issuer hereby declares its official intent to reimburse itself with the proceeds of the Borrowing for any of the Expenditures incurred by it prior to the issuance of the Borrowing.

This the 13<sup>th</sup> day of February, 2007.

Chairman Jones seconded the motion. A vote was unanimous.

**Lease w/ WestCare**

Vice-Chair Lindsay made a motion to approve a Lease to Purchase agreement with WestCare. Commissioner Moon seconded the motion. A vote was unanimous.

**Resolution authorizing filing an application for approval of a financing agreement - TDA**

Chairman Jones made a motion to adopt the following resolution:



**Resolution # 930-2007-02**

**STATE OF NORTH CAROLINA  
COUNTY OF SWAIN**

**“RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION  
FOR APPROVAL OF A FINANCING AGREEMENT AUTHORIZED BY**

**NORTH CAROLINA GENERAL STATUTE 160A-20**

**WHEREAS**, the County of Swain of Bryson City, North Carolina desires to engage in a financing contract for five hundred fifty thousand dollars (550,000) for the procurement of .2809 acres property and a 3,075 square foot building designated for Tourism Development purposes (the "Project") to better serve the citizens of Swain County; and

**WHEREAS**, The County desires to finance the Project by the use of an installment contract authorized under North Carolina General Statute 160A, Article 3, Section 20; and

**WHEREAS**, findings of fact by this governing body must be presented to enable the North Carolina Local Government Commission to make its findings of fact set forth in North Carolina General Statute 159, Article 8, Section 151 prior to approval of the proposed contract;

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Commissioners of Swain County, North Carolina, meeting in regular session on the 13th day of February, 2007, make the following findings of fact:

1. The proposed contract is necessary or expedient because the County has a purchase agreement for the property that will expire in 60 days. The land is adjacent to the current location of the Swain Count Chamber of Commerce.
2. The proposed contract is preferable to a bond issue for the same purpose because the County does not have enough un-appropriated fund balance to pay for the land and the rates for the installment purchase are competitive with a general obligation or revenue bond.
3. The cost of financing under the proposed contract is less than the cost of issuing a general obligation bond.
4. The sums to fall due under the contract are adequate and not excessive for the proposed purpose because the County will be paying fair market value for the property.
5. The County of Swain's debt management procedures and policies are good because the County has followed all the laws associated with the installment purchase agreement.
6. The increase in taxes necessary to meet the sums to fall due under the proposed contract will be 0 cents per \$100 valuation.
7. The County of Swain is not in default in any of its debt service obligations.
8. The attorney for the County of Swain has rendered an opinion that the proposed Project is authorized by law and is a purpose for which public funds may be expended pursuant to the Constitution and laws of North Carolina.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that Finance Officer is hereby authorized to act on behalf of the County of Swain in filing an application with the North Carolina Local Government Commission for approval of the Project and the proposed financing contract and other actions not inconsistent with this resolution.

This resolution is effective upon its adoption this 13th day of February, 2006.

Commissioner Carson seconded the motion. A vote was unanimous.

**TVA Resolution**

Chairman Jones made a motion to adopt the following resolution:



**Resolution # 900-2007-3**

**STATE OF NORTH CAROLINA  
COUNTY OF SWAIN**

**RESOLUTION REQUESTING MODIFICATION TO N.C. GEN. STAT. §105-459  
ENTITLED “DETERMINATION OF AMOUNT OF TAXES LOST BY VIRTUE OF  
T.V.A. OPERATION OF PROPERTY; PRORATION OF FUNDS”**

The Swain County Board of Commissioners hereby resolves the following at a regularly assembled meeting:

**WHEREAS**, Within the borders of Swain County, there is located property owned by and operations carried on by Tennessee Valley Authority (hereinafter “Authority”); and

**WHEREAS**, the North Carolina General Assembly has adopted N.C.Gen. Stat. §105-459 et seq to establish how the amount of taxes due from the Authority are determined and distributed to the local governments; and

**WHEREAS**, Swain County receives payments in lieu of taxes as set out in N.C. Gen. Stat. §105-458, et seq from Authority; and

**WHEREAS**, Section 105-459 of the North Carolina General Statutes provides that calculations for the payments in lieu of taxes shall be made by using the tax rate fixed for Swain County; and

**WHEREAS**, the Swain County Board of Commissioners believes it to be in the best interest of Swain County and its citizens to create a more fair and equitable way to calculate the payment in lieu of taxes from Authority; and

**WHEREAS**, the Swain County Board of Commissioners desires and requests that the North Carolina General Assembly modify N.C.Gen. Stat. §105-459 as follows:

**“The Department of Revenue shall determine each year, on the basis of current tax laws, the total taxes that would be due to both the State of North Carolina and the local governments in the same manner as if the property owned and/or operated by the Authority were owned and/or operated by a privately owned public utility. The Department of Revenue and the Treasurer of the State of North Carolina shall then prorate the funds received from the Authority by the State and local governments between the local governments upon the basis of property and operations valuations located within the boundaries of each local government.”**

**NOW THEREFORE BE IT RESOLVED:**

That the Swain County Board of Commissioners at its February 13, 2006 meeting, adopted this resolution requesting the modification to N.C. Gen. Stat. §105-459 as set out hereinabove in order to create a more fair and equitable way to calculate the payments from Authority.

Commissioner Carson seconded the motion. A vote was unanimous.

**County Manager's Report**

Kevin King, County Manager gave an update on the Governor's Island and Franklin Grove water and sewer projects and also noted progress on the Law Enforcement Center.

**Closed Session:** Chairman Jones made a motion to go into Closed Session as called for under G.S. 143-318.11(a)(5) and 143-318.11(a)(6) to discuss Building and Grounds position and contract negotiations for the high school. Commissioner Carson seconded the motion. A vote was unanimous.

Commissioner Monteith made a motion to adjourn the closed session. Commissioner Carson seconded the motion. A vote was unanimous.

**Adjournment**

There being no further business to discuss at this time, Chairman Jones made a motion to adjourn. Seconded by Commissioner Carson, a vote was unanimous.

Respectfully Submitted,

Kevin S. King  
Clerk to the Board  
Swain County Commissioners

Glenn Jones  
Chairman  
Swain County Commissioners