

**STATE OF NORTH CAROLINA
COUNTY OF AVERY**

The Avery County Board of Commissioners held a Board Workshop on Thursday, March 3, 2016 at 6:00 p.m. in the Commissioners Board Room, Avery County Administrative Complex, 175 Linville Street, Newland, NC. The purpose of the workshop was to discuss changes to the Avery County Board of Commissioners Board Policy.

Members Present: Martha Hicks, Chair; Maxine Laws, Vice-Chair; Reo Griffith; Faith Lacey; Blake Vance

Members Absent: None

Call To Order

Chair Martha Hicks called the meeting to order at 6:00 p.m.
Chair Hicks read aloud the board workshop meeting notice.

Tim Greene, County Manager, stated that back on July 16, 2015 we sent to all of the Board the board policy with some recommended changes. Then we met on the 20th of July, 2015 in a workshop and discussed this. On the 27th of July, the clerk typed up all of the questions and concerns from that workshop and emailed to the board and also emailed to Gerald McKinney, County Attorney. Everybody has had these revisions in their hands for over eight months. There are a number of changes that we feel like need to be made. I would anticipate that by consensus we can agree or not on each of these changes. We are certainly here to discuss this and not make any changes but come to an agreement on the changes and then at a regular board meeting we will adopt the changes. We will go page by page on the board policy.

1.2 We are saying change the Avery County Government Building to the Avery County Administration Building. Consensus to change.

1.3 Commissioners Luncheons. Consensus to delete from the policy.

1.9 Board members Compensation—Consensus to delete the struck out portion.

2.6 In order for an agenda item to be added at a meeting, all Commissioners must be present and unanimously vote in the affirmative. I would recommend and the School of Government goes along with this to change this to say “in order for an agenda item to be added at a meeting, a majority of the members present must vote in the affirmative.” There was discussion on 2.6, skipped at this time.

2.9 Nominations to advisory committees and/or boards shall appear, as appropriate, on the agenda for the second regular business meeting of each month. Sometimes we don't have a second meeting of the month. The county attorney will word this.

2.10B We are doing the opposite of what the board policy states as far as signing up for public comments. I think we need to change the policy on this one. Discussion. County Attorney suggested to make the announcement regarding signing up for an agenda item. Consensus to change this.

2.10B&E Change address to Community of Residence. Consensus to change this.
3.2B Change Public Appearance to Public Comments. Consensus to change.
3.6 (6) The General Statute should say G.S. 143-318.11 (a) (6). Consensus to change.
Note on page 9: Strike out completely. Consensus to strike.
Advisory Boards/Committees: Consensus to revise the Advisory Boards/Committees as presented.

Reo Griffith stated “6.3 Open Meeting Laws we each have what is the book written by Professor Lawrence at the School of Government concerning open meetings. I would ask this board to memorize that book concerning Open Meeting Laws.”

Tim Greene stated that the County Attorney had given us a month or so ago the proposed policy amendments regarding 6.5, 6.6, 6.7, 7.7 and 7.12. This looks good to me. Gerald McKinney, County Attorney, said that he had been through these and the objective was to make everything consistent and not contradict itself.

Reo Griffith said “Dr. Lawrence, School of Government, says if a committee is going to be at some point in time advising a governing board, they are under public meeting laws and ad hoc committees are under these laws because at some point in time we are going to be relying on them to give us some information where we do have the authority.” Blake Vance said “6.8 and 7.8 contradict each other.” Gerald McKinney, County Attorney, said that the second sentence of 6.8 could be gotten rid of and use 7.8 also. Blake Vance said when we establish a committee or board we need to say it is an ad hoc committee.

Reo Griffith said “I ask to be excused and I want to be on record if there is any talk concerning any relinquishing of any powers of the Board of County Commissioners I stand in objection. I have to leave to go to another meeting. Budget issues, transfer of monies that the Board of Commissioners should vote on it needs to be 100% left like it is.”

Reo Griffith left at 6:45 p.m.

6.8: Second sentence of 6.8 will be struck out by consensus.

Blake Vance said “while we are in this can we establish a way to designate a committee when it is formed. We have had a couple of committees that I feel were improperly formed. When we had the veteran’s board for the veteran’s monument, we did not cast a signal vote on it. The same thing happened with the high school committee. I think we need to cover ourselves a little bit.” Mr. McKinney said it may be that you add a section 6.01 Procedure for creation and designation of standing committees and ad hoc committees. It is more just to keep confusion down.

6.01—Add 6.01 Procedure for Creation and Designation of Standing Committees and Ad Hoc Committees ---the County Attorney will word this for us.

Consensus of the Board to take the County Attorney's proposed Policy Amendments as Presented as follows:

- 6.5 Except as set forth in Sections 6.6 and 6.7, all county employees are hereby prohibited from serving on any board, committee, council or commission where appointments are made by the Board of County Commissioners or where funding is provided by Avery County, including special study committees appointed for the purpose of recommending funding.
- 6.6 Employees may, however, serve on a board, committee, council, or commission under the following circumstances and in the following capacity:
- A. In the event that state or federal law, or grant or other funding mandates require that the employee serve and vote, then the appointment shall be as a full member.
 - B. In the event that state or federal law, or other grant or funding mandates require only that the employee serve, but is not required to vote, then the appointment shall be in an ex-officio and non-voting capacity. Such appointment shall not be used to fill a vacancy for a voting member and the employee shall not be counted for the purpose of determining if a quorum is present.
 - C. In the event the Board of County Commissioners otherwise determines that service by an employee serves the best interest of the County, in light of the experience or expertise of the particular employee, then the Board may make such appointment in an ex-officio and non-voting capacity. Such appointment shall not be used to fill a vacancy for a voting member and the employee shall not be counted for the purpose of determining if a quorum is present.
- 6.7 **Dual or Multiple Office Holding by Commissioners or Officials**
- Except when the resolution of appointment provides otherwise, whenever a member of the Avery County Board of Commissioners or a county official is appointed to a board, committee, council, or commission, the same shall be considered as part of his or her duties of office and not be considered to be serving in a separate office. The appointment shall be in

a voting capacity unless otherwise provided in the resolution of appointment.

- 7.7 Except as provided in Sections 6.6 and 6.7, all County employees are prohibited from serving on any advisory board, committee, or commission where appointments are made by the Board of Commissioners or where funding is provided by Avery County, including special study committees formed for the purpose of recommending funding or policy.

6.9---Section 6.6 and 6.7 are not intended to apply to internal committees dealing with daily operational issues of the county, such as Safety Committee.----Consensus to add this.

7.13----the portion of the bylaws with the regular membership criteria, current membership, meeting schedule and purpose along with the application will be included in the agenda packet when the Board will be voting on appointments. Consensus to change to this.

7.17---Strike out “If qualified applicants cannot be recruited within that two week time frame” . The sentence will start “All vacancies shall be publicly advertised by the County Manager as appropriate, i.e., newspaper, radio, etc.”

Faith Lacey said “I think we need to advertise if someone has been on the board too long then that person needs to come off of that board for a year and in the meanwhile let’s try to find someone to fill that place. The director or who is in charge of that board if we tell them that they will help fill that vacancy then that way we won’t have people serving on that board 20 years. I am confident that if I was over a board and I saw that one of my members was going to be there and serve six years I would be looking for someone, too. I feel like we need to include whoever the director is over the board also and that person needs to come off for a year.”

Blake Vance said “The other side of that is that if you are on the boards for certain periods of time sometimes you develop connections in Raleigh and other places that are valuable to have where you can get grants, etc. I was thinking about Sam Calvert on the Airport Authority because he has very good connections in Raleigh and has been able to obtain grants so sometimes it is beneficial to have someone that has been on the board for 20 years. I think it should be at the discretion of the Board of Commissioners.”

Maxine Laws said “For example, Mr. Calvert, there was no one else to put on that board. I see leaving him on that board. On these everyday boards I think they should hold the time limit that they should do and someone else to come on.”

Faith Lacey said “It is not a lifetime appointment. Let’s go by the policy. If someone has been on the board six years leave it up to the director and us to find someone else.”

Blake Vance said “You don’t want the Dr. Boyd, for example, to recruit the board members for the Mayland Board of Trustees because he is probably going to recruit people that are favorable for him.”

Faith Lacey said “I am saying basically you can’t leave the same people on the boards the statutes basically tell you that.”

Maxine Laws said “I think we need to stick with what the policy says that a person on the board can serve 2 three year terms and then they must come off.”

Faith Lacey said “I think a letter needs to go out to each department of the county telling them six years is the limit and in six years they must come off the board for a year. Our policy is clear. You can keep advertising until it is filled. It is not going to happen until we do it.”

Mr. McKinney said “You have a little bit of a ‘fudge’ factor here because it says ‘Except in extraordinary circumstances or where otherwise restricted by legislative authority, it shall be the policy of the Board of Commissioners that the terms will not be more than six consecutive years’. So the ‘except in extraordinary circumstances’ could deal with this but I think there needs to be something there which says something in the minutes that this is vacant we don’t have anyone to fill the vacancy and this is deemed an extraordinary circumstance.”

Faith Lacey said “The airport authority is aging fast so don’t they need someone to train.”

Faith Lacey said “Is there not a statute that says basically that a commissioner should not be on more than one board? Boards are really to get people involved.”

Mr. McKinney said “I think that is like when Reo ran for Sheriff, he couldn’t be Commissioner, that is what that is talking about.”

Tim Greene read from the “Handbook for NC County Commissioners” as follows: “The ban on multiple office holding does not apply to offices that are held ex officio. Sometimes the law confers the duties of one office on the holder of another or permits the board of commissioners to do so. In those instances, the duties of the second office are said to be held “ex officio”. For example, the law often permits or directs a board of county commissioners to appoint one of its members to another county board, such as the board of health.” Mr. Greene said “you can be on multiple boards like that, not just two. There has been confusion on that but there is nothing wrong with being on multiple boards.”

Maxine Laws said “So if , for example, Faye is on three boards and the Board of Commissioners ask her to be on another board, she can do that?” Mr. McKinney said “yes that is true.”

Blake Vance said “On the part about 2 three year terms we have three people agreeing that the statement “Exceptions can be made at the discretion of the board” which should be added.” Consensus by three board members.

Faith Lacey said “I am opposed to that.”

The clerk was instructed to email all of the boards and tell them at the expiration of each person’s term that they must come off.

Tim Greene said “We can either purge them all off now or as their terms expire.”

Maxine Laws stated she thought as each one comes up for renewal to have them come off.

Mr. McKinney said “we have the policy as it is right now. Faye, if you think it needs to be six years then it probably needs to be brought up at a meeting to take out “except in extraordinary circumstances.”

Faith Lacey said “I think boards are set up and read what the statutes says that boards have been set up to involve different people from different parts of the county so that they can become familiar and go back into a community and support a board or they can bring new ideas to them. I think we are stuck in that we can’t get anyone but if you leave it up to the director to help search or ask whoever is on the board to help find someone.”

Maxine Laws questioned “Can we do this, if we advertise and we don’t come up with someone then do we take them off and leave it vacant and then say you can stay on the board until we find someone because on some boards you have to have them? Could we word it that when the time is up and we have no one to fill that vacancy?”

Mr. McKinney said that is addressed in 7.12(c).

Mr. Greene said “the policy says you can stay on until your successor is named and the policy also says if it is extraordinary circumstances you can stay on. If we want to take the position six years and your done then the policy needs to change. If on the flip side if you say no we want to give flexibility then Gerald and Blake is saying do we want to clean that up a little bit and make a little clearer.”

Mr. McKinney said that maybe we should clean it up by making sure we put in the minutes what the extraordinary circumstances are for someone staying on.

Mr. Greene said “you have that or you can change it and say well six years and you have to come off.”

Mr. Greene said “be thinking about that we don’t have to decide today.”

7.12----Leave as currently in the policy.

Page 19---There is a Code of Ethics in the policy and in 2010 the Board of Commissioners adopted a Code of Ethics in a regular meeting. The County Attorney will look at both of these Code of Ethics and determine what needs to be done.

Page 22---Mr. Greene said that this has not been done in the past and do we need to do it. This is a general disclosure in which the clerk to the board is to prescribe the form and fee for copying. It says that members of the Board of County Commissioners, County Manager, County Attorney, County Finance Officer, Clerk to the Board, Department Heads and employees shall file with the Clerk to the Board on or within 30 days prior to the first day of February of each year a non-invasive statement stipulating no outside interest incompatible with the interest of the county.

We need to come up with a form. We do not have a form.

Ms. Lacey stated that she thought that we needed to do that.

Mr. McKinney said his first impression is that we do not need for all employees. The County Attorney will research that. He is to find a good form.

Page 24---Consensus to strike out “the Board of County Commissioners shall select annually” and replace with “Avery County shall have its accounts audited annually by”. Strike out “directly to the Board of County Commissioners” and add “directly to the governing board.”

Page 27---Consensus to strike out “the County, as of the adoption of this policy, does not make cash payments to employees that exit employment for any unused vacation time.” Replace with “the County only makes cash payments to employees that exit employment in good standing up to a maximum of 240 hours.”

Page 28---The general statute has changed on the fee. It says \$30,000 but the general statute says \$50,000. Consensus to change the amount.

Page 30---Consensus to take out Section 11 entirely. The County Attorney agreed with this completely.

Page 33 Section 12----The County Attorney will research this.

Page 36 Paragraph F---Mr. Greene said we covered this at the July meeting and I think we need to fix this. This is talking about the County Manager has the authority to transfer money between line items in a department. We also record that in the line item transfers in the agenda consent items. In years past the “Available for Appropriation” line item I would take money from that and do a line item transfer to a department so according to policy I should not have done that and we have corrected that. When we

take money out of that line item then the Finance Officer does a budget amendment. We need to remove the strike through.

Faith Lacey stated “We voted that you can move within a department but you need to get approval from the board before you can put money into any other department per statute 159-15, we have to vote. If you do make a transfer you need to report it to the commissioners at the next Board meeting.”

Mr. Greene said “that is correct and we report that in the line item transfers in the agenda consent items.”

Consensus to not strike out “and do not exceed the funds authorized in the budget process for said department; and as previously discussed.”

Maxine Laws questioned “Does anywhere in this policy does it give the County Manager the right to move money from one general fund to another department without it being brought before us?”

Tim Greene stated “No, the only thing that I can do or Nancy can do is transfer monies from inside the department from line item to line item. To transfer anything from department to department would take a budget amendment. To transfer from the general fund to another department takes a budget amendment.”

Page 37 13.2-----Consensus to add “or Finance Officer” to this section.

Page 39 Section 15-----The County Attorney has a public records policy from DENR and will address this issue.

Page 41 Section 16----Consensus to Delete.

Page 43---Mr. Greene said we are paying the Board of Elections different than the policy. Strike out paragraph 1 under Section 17 and Paragraph 2. Add “members of the Board of Elections shall be compensated at the rate of Three Hundred Fifty Dollars (\$350) per month. The County Attorney said this should not be a part of the board policy. There should be a written memorandum of understanding. Consensus to Delete out of the policy.

Page 44 Paragraph B---Consensus to strike out “currently, the Board of Commissioners has elected to exempt Elected Officials in the county’s salary Administration Plan.”

Page 46—Consensus to strike out the “Salary changes resulting from performance, salary step changes, or cost of living will only be awarded on the anniversary date of employment. Market adjustments may be made at any time provided that the funding allocated in the budget process is not exceeded. Time of implementation for cost of living increases are at the discretion of the County Manager.”

Page 47 Paragraph C---Consensus to strike out “During the budget process, the County Manager or his/her designee will provide for the Board’s consideration the total amount of fund allocated during the current fiscal year for salary purposes.”

Page 47 and Page 48---Consensus to strike out “with the exception of the County Manager, County Commissioners, and Director of Election; strike out “the Director of Elections’ salary is determined by state law to which the county adheres”; strike out “The County Manager’s salary is determined by contract and will be considered on an annual basis starting with October 2002 and each October thereafter.” (County Manager is set up on the pay plan that is in the contract).

Page 49---Consensus to delete if ok with the County Attorney.

Page 51---Consensus to change the misspelled words.

Page 53 Section 24 3.----Consensus to strike out “the County Manager” add “all elected officials”.

Blake Vance questioned if some of this could be in the Personnel Policy.

Mr. Greene stated that the Vacation Compensation; Longevity Compensation; Retiree Benefits should be in the procedures policy. The Board is to think about this.

The County Attorney will get back with us on some of these issues and then we will vote on them at a regular meeting.

Adjourn

Motion by Faith Lacey and second by Blake Vance to adjourn this meeting at 8:00 p.m. Motion unanimously approved with those in attendance (4-0).

**Martha Hicks, Chair
Avery County Board of Commissioners**

ATTEST: _____
Cindy Turbyfill, Clerk

