

**STATE OF NORTH CAROLINA
COUNTY OF AVERY**

The Avery County Board of Commissioners met in Regular Session on Monday, December 7, 2009 at 3:30 p.m. in the Commissioners Board Room, Avery County Administrative Complex, 175 Linville Street, Newland, NC.

Members Present: Kenny Poteat, Chairman; Phyllis Forbes, Vice-Chair; Scott Heath; Martha Hicks; Glenn Johnson

Members Absent: None

Call To Order

Chairman Poteat called the meeting to order at 3:30 p.m.

Chairman Poteat stated that when the Board had prayer that participation was not required by anyone at all and that it was completely optional.

Chairman Poteat led prayer.

Organizational Meeting

Election of Officers

Chairman Poteat turned the meeting over to the County Manager for the purpose of electing the Chairman. The County Manager opened the floor for nominations for Chairman of the Avery County Board of Commissioners.

Motion by Glenn Johnson and second by Martha Hicks to nominate Kenny Poteat as Chairman of the Avery County Board of Commissioners. There were no further nominations. Motion unanimously approved.

The County Manager turned the meeting back over to Chairman Poteat. Chairman Poteat thanked the other Board members. Chairman Poteat asked for nominations for Vice-Chairman.

Motion by Martha Hicks to nominate Phyllis Forbes as Vice-Chair of the Avery County Board of Commissioners. There were no further nominations. Motion unanimously approved.

Appointment of Officers

Chairman Poteat stated that there are four positions that needed to be appointed. The County Attorney is currently Michaelle Poore with Harrison and Poore.

Motion by Phyllis Forbes and second by Martha Hicks to retain the firm of Harrison and Poore for the County Attorney. Motion unanimously approved.

Motion by Glenn Johnson and second by Scott Heath to appoint Cindy Turbyfill as Clerk to the Board of Commissioners. Motion unanimously approved.

Motion by Phyllis Forbes and second by Martha Hicks to appoint Tim Greene as the Finance Officer. Motion unanimously approved.

Motion by Scott Heath and second by Phyllis Forbes to retain Robert Wiseman as the County Manager. Motion unanimously approved.

Chairman Poteat stated that the County had a fine group of organizational officers. Phyllis Forbes said that this is one of the best groups ever to work with.

Board Appointments – Northwestern Regional Housing Authority

Ned Fowler, Director of Northwestern Regional Housing Authority, updated the Board regarding the Northwestern Regional Housing Authority. Mr. Fowler stated there were approximately 3000 families in Avery County that are priced out of home ownership and often priced out of the rental market. The regional housing authority provides government rental assistance, mixed finance affordable housing development, certified property management and free comprehensive housing counseling. Mr. Fowler said that last month Northwestern Regional Housing Authority signed a 1.3 million dollar contract for homeless prevention and Avery County will get \$75,000 to \$80,000 per year for the next three years to help people from falling into homelessness.

Mr. Fowler advised that the North Carolina General Statutes 157 provides that the Board consider a five year appointment to the Northwestern Regional Housing Authority to become effective on December 12, 2009. Mr. Wood Hall Young has been the appointee for the past 30 years. Mr. Young has been a neighbor, friend, advisor and advocate for Avery County. Mr. Fowler requested that the Board consider reappointment of Mr. Wood Hall Young to the Board of Trustees.

Phyllis Forbes stated that she felt Avery County was still in need of affordable housing. She said that she felt there needed to be additional properties added if the opportunity arose.

Motion by Scott Heath and second by Phyllis Forbes to reappoint Wood Hall Young to the Northwestern Regional Housing Authority for a term of 5 years becoming effective December 12, 2009.

Chairman Poteat stated that the Board appreciated Mr. Young's willingness to serve.

Motion unanimously approved.

Public Comments

Jerry Moody, Little League President, stated that the Board agreed to give \$5000 to go to the principal payment for the lights. The Board was given a copy of the statement showing that the \$5000 was applied to the principal and \$13,000 payment was made also. Mr. Moody thanked the Board for their support of Little League. He said that the next president would be Mr. Bill Daniels.

Scott Heath stated that this is a wonderful facility not through a tremendous amount of county funds but through the Little League Board. There have been private individuals that personally signed notes.

Resolution to Create E-Avery

Sara Yackey reported that she was coming to the Board today to ask the Board to approve the resolution that has been submitted in support of the e-Avery to get high speed broad band to the County. Chairman Poteat stated there was a presentation at the Board of Education a few days ago by Sara Yackey regarding broad band. Robert Wiseman, County Manager, stated that the wording that he would call the Board's attention to is the very last sentence which states that the Board would agree to be the fiscal agent. Mr. Wiseman stated that this did need clarification but without the Board of Commissioners being the authorized fiscal agent it would be impossible to proceed with any type of grant funding. Avery County would have to be the lead agent as a governmental entity to go to the High Country Council of Government to put together a grant application. The County Manager stated that by adopting this resolution and Avery County being named the fiscal agent does not commit Avery County tax money. Michaelle Poore, County Attorney, advised that the way the Resolution was worded the County would be setting up the committee and be the fiscal agent and if this is the case there would need to be parameters about the committee, its membership and termination. The County Manager stated that the committee is ongoing. Chairman Poteat stated it was not the Board's intention to create the committee but for the Board to help with this committee.

Motion by Phyllis Forbes and second by Scott Heath to approve the Resolution regarding the e-Avery Effort as tweaked by the County Attorney and appropriate signatures to be affixed. Motion unanimously approved.

Tax Collector Report – Phillip Barrier

Phillip Barrier presented the Tax Collections Report for the month of November 2009 in the absence of Mary Daniels. Total taxes collected were \$2,672,713.04.

Motion by Martha Hicks and second by Glenn Johnson to approve the Tax Collections Report as presented. Motion unanimously approved.

Chairman Poteat stated that the Board appreciated Gloria Freeman for her 31 years of service to the County.

Tax Assessor Report – Phillip Barrier **Real and Personal Releases**

The Real and Personal Releases for the month of November 2009 are County Tax \$302.89 and Fire Tax \$29.82.

Motion by Phyllis Forbes and second by Scott Heath to approve the Real and Personal Releases as presented. Motion unanimously approved.

Real and Personal Refunds

The Real and Personal Refunds for the month of November 2009 are County Tax \$60.19 and Fire tax \$6.50.

Motion by Martha Hicks and second by Glenn Johnson to approve the Real and Personal Refunds for the month of November 2009 as presented. Motion unanimously approved.

Motor Vehicle Releases

The Motor Vehicle Releases for the month of November 2009 are County Tax \$42.29 and Fire Tax \$4.53.

Motion by Phyllis Forbes and second by Martha Hicks to approve the Motor Vehicle Releases for the month of November 2009 as presented. Motion unanimously approved.

Mr. Barrier stated that the Sales Statistics for the week of November 4, 2009 were up one million dollars from last year. Mr. Barrier also stated that the tax listing notice would go out in January and that the listing would not have a value on it and that the values would be received the first week of February.

Mr. Barrier explained the elderly and disabled exemption.

Avery Cancer Resource Center

Ann Coleman, Volunteer Coordinator for the Avery Cancer Resource Center, spoke to the Board regarding the services that the center provides. The Avery Cancer Resource Center was opened in 2007 at Cannon Hospital. The center provides services to Avery County cancer patients which include transportation, cosmetology, support groups, etc. Ms. Coleman stated that she wanted the Board and public to be aware of the services that the Avery Cancer Resource Center provided and that this was provided by volunteers. Martha Hicks thanked Ms. Coleman for the work that the Avery Cancer Resource Center was doing in Avery County.

CDBG Scattered Site Housing – Michelle Ball

Michelle Ball stated that the Scattered Site Housing project was underway and that as soon as the administration contract for the High Country Council of Government is signed by this Board that the funds could be released. There are 5 homes on the project; three will receive replacement homes and two homes will be rehabilitated. Chairman Poteat stated that he had been pleased to work on this particular committee in trying to determine who best deserved the housing. Ms. Ball advised that there were several documents that needed to be approved by the Board. Chairman Poteat stated that the first document was the agreement between the High Country Council of Government and Avery County for the provision of grant management assistance.

Motion by Martha Hicks and second by Glenn Johnson to approve the Avery 2009 Scattered Site Administration Contract. Motion unanimously approved.

Motion by Phyllis Forbes and second by Scott Heath to approve the attachments A&B of the Scattered Site Administration Contract. Motion unanimously approved.

Motion by Phyllis Forbes and second by Glenn Johnson to approve the Procurement Policy for Recruiting. Motion unanimously approved.

Motion by Glenn Johnson and second by Martha Hicks to approve the Avery County Grant Project Ordinance. Motion unanimously approved.

Motion by Martha Hicks and second by Phyllis Forbes to approve the Fair Housing Plan. Motion unanimously approved.

Motion by Phyllis Forbes and second by Scott Heath to approve the Residential Anti-Displacement and Relocation Plan. Motion unanimously approved.

Motion by Martha Hicks and second by Glenn Johnson to approve the Optional Coverage Relocation Plan Resolution. Motion unanimously approved.

Ms. Ball stated there should have been some more documents for approval. She would bring them to the next Board meeting for approval.

Recess

Chairman Poteat called for a 3 minute recess.

County Manager Updates – Robert Wiseman

Board Policy

A draft copy of the Board Policy for review will be forthcoming.

Criminal Background Check Ordinance

The County Manager stated that the Board had the public hearing required for the Criminal Background Check Ordinance and at that public hearing there was some concern regarding the wording in the resolution that said the "County Manager or his designee" would be responsible for background checks. The County Manager advised that he was in the process of updating the personnel policy which he would like for the criminal background checks to be included in the update. He stated that he had no problem with striking the word "designee". Chairman Poteat stated the he saw no problem with striking the word "designee" and adopting the ordinance. The County Attorney questioned what might happen if the term "designee" was taken out of the ordinance and then there was a vacancy in the office of the County Manager. If the word "designee" was included then that would cover if there was absence of the County Manager. The County Attorney stated that the Criminal Background Check Ordinance had been

approved by the SBI and that if there were changes in the ordinance it would have to go back to the SBI for approval. She also stated that one change that would be made is the "Avery County Sheriff's Department" would be changed to the "Avery County Sheriff's Office".

Motion by Glenn Johnson and second by Scott Heath to approve the Avery County Criminal History Check Ordinance as printed with the verbiage changed to "Avery County Sheriff's Office". Motion unanimously approved.

Department of Social Services

The County Manager stated that currently Tom Hughes, DSS Director, was negotiating with Watauga County with respect to a child protective service worker. Due to changes in the legislation, Avery County and Watauga County are considering working in concert. It would appear that it would be to Avery County's advantage operational as well as financial to have a joint operation that would be 2 ½ days in Avery County and 2 ½ days in Watauga County for a child protective service worker as opposed to creating another position for Avery County.

Avery County Senior Services

R.D. Daniels, Director of Senior Services, stated as a result of the stimulus funds, Avery County is receiving \$8108.00. This money is designated to go into nutrition services. The budget was approved at the beginning of the fiscal year and the Division of Aging understanding with the money coming in late has given us the leeway to substitute Home Community Care Block Grant Funds in the nutritional budgets and use the block money in other areas where we can make use of that money. This constitutes a budget revision. The intent is to put \$5108.00 of the monies into the contract with High Country Home Care to provide level II personal care and \$3000 in the senior center funds to provide for instruction and help expand the instruction classes. The intent of the monies is to create jobs. This money requires a 10% match but the fact that we are well overmatched with local monies in our budget will not require additional local funds for us to make sure of these funds.

Motion by Phyllis Forbes and second by Glenn Johnson to approve a Budget Amendment for Avery Senior Center from the American Recovery and Reinvestment Act with a debit of \$3000 to (105960.5400) and a debit of \$5108.00 to (105960.5430) and a credit of \$8108.00 to (103670.0000). Motion unanimously approved.

Lottery Funds

The County Manager stated that at the last joint meeting of the Avery County Board of Commissioners and the Avery County Board of Education there was some discussion as to the lottery fund money that was unallocated right now. At the last meeting it was discussed that the fund should not be completely deleted in case there was an emergency situation. Chairman Poteat advised that \$450,000 of the lottery fund was already appropriated to school construction. Tim Greene stated that the total amount of the lottery funds were \$611,966.68; \$450,000 had been allotted for school construction leaving \$161,966.68. Chairman Poteat suggested that \$140,000 be forwarded from the lottery funds to the Board of Education to be used for capital outlay and that \$22,000 be left intact for emergencies, such as roof leaking or boilers breaking down.

Motion by Glenn Johnson and second by Martha Hicks to approve releasing \$140,000 from the NC Lottery Funds to the Avery County Board of Education for the use of capital outlay with the said application being approved and signed. Motion unanimously approved.

Avery County Rescue Squad

The County Manager stated that he needed some direction in reference to the Avery County Rescue Squad and monies that are allocated to that squad on a quarterly basis. There are a lot of allegations and issues that have been brought up. There are several Commissioners that have received calls. He stated that there had been several questions regarding audit of the Avery County Rescue Squad. The County Manager said he would not go into the allegations but it is an issue right now with public trust. He stated that the time has come for someone to step forward and answer some of the questions and allegations and he was looking for direction from the Board. Chairman Poteat stated that Mr. Glenn Johnson had some concerns and that by consensus to instruct the County Manager's Office to pursue this issue and uncover any possible allegations concerning the Avery County Rescue Squad. Mr. Johnson agreed that there are too many allegations and talk that are floating around and these needed to be put to rest and that it would be appropriate to have the appropriate person or persons to come before the Board or a letter written to address these allegations.

Intersection of Hwy 181 and Avery High School Road

Scott Heath asked the County Manager to find out if Mountain Electric could do anything at the Intersection of Hwy 181 and Avery High School Road regarding the lighting.

Annual Audit Report – Sharon Gillespie

Sharon Gillespie, Auditor, presented the Annual Audit Report. The assets of Avery County exceeded its liabilities at the close of the fiscal year by \$30,178,593. The government's total net assets increased by \$3,683,575 primarily due to increased net assets in the General Fund. Avery County's governmental funds reported combined ending fund balances of \$24,506,706 an increase of \$1,210,115. At the end of the current fiscal year, unreserved fund balance for the General Fund was \$5,316,678 or 20 percent of total general fund expenditures and transfers to other funds for the fiscal year. Avery County's total debt decreased by \$1,488,324 during the current fiscal year primarily due to principal reductions resulting from regularly scheduled payments. Tax collection rates were 96.96%; Motor vehicle collection rates were 91% and the Ad Valorem collection rate was 97.2%. Ms. Gillespie stated that the Tax Office was doing a great job with tax collections.

Motion by Martha Hicks and second by Scott Heath to approve the Audit Report as presented. Motion unanimously approved.

New Banner Elk School Construction Updates – Jeff Hurd

Jeff Hurd, Construction Manager, stated that there were issues on the site with an underground drainage system complicated by all the rain. Due to the fact of constructability issues construction has been stopped on the west end and the architect and engineers have been notified and a meeting was scheduled to take place on Wednesday. Mr. Hurd said that this might seem discouraging to some of you but it would be best to stop construction and require complete resolution of the issues so we don't have end product liability in the end.

The County Manager stated that the engineers drawings for the turn lanes were reviewed and there were 4 or 5 significant issues. He said that Mr. Hurd had looked at the issues and he has gone back to the architects and engineers to see if there is some resolution to these issues before they sit down to talk with Pettyjohn, Ledbetter, and Poe with the NC DOT.

Grant Opportunities – Avery County Sheriff's Office

Troy Cook, Detective for Avery County Sheriff's Office, stated he was aware of some opportunities through the Governor's Crime Commissioner for grants. The grants are probably a 25% local match. The first grant is for \$10,000 for equipment or overtime. The second grant is for the Domestic Violence Officer, Natalie Cook, who has been funded by a grant since 2006. This is usually a 25% match and has been able to do an in kind match such as office space. Mr. Cook stated that he was only doing a preapplication that needed to be turned in by January 31, 2010 and then he would receive a letter instructing them to fill out a full application. He also stated that he wanted to apply for another position that would be an asset forfeiture position which he felt with seizing of property that this position would pay for itself. The money that is seized or the money from the sale of seized property goes to the schools. Chairman Poteat said that unlike grant #2, grant #3 would be a new position which would require a 25% match which would be around \$12,000 to \$15,000. Sheriff Frye advised that they were only asking permission to send in the preapplication and then they would be back to the Board before the grants were actually applied for. Chairman Poteat said that personally he did not have a problem with applying for Grant #1 to be used for overtime and did not have a problem with applying for Grant #2 because it was ongoing and working well. He stated he did have a problem with Grant #3 because it would be approving a new position with an additional cost of \$12,000 to \$15,000 to the county.

Motion by Phyllis Forbes and second by Martha Hicks to approve Grant #1 for \$10,000 with a likelihood of a 25% match with the grant to be used for overtime. Motion unanimously approved.

Motion by Martha Hicks and second by Glenn Johnson to approve the Grant #2 that is funding the existing position for the Domestic Violence position for the upcoming year. Motion unanimously approved.

Motion by Scott Heath and second by Phyllis Forbes to allow the Sheriff's Office to apply for the grant for an asset forfeiture position.

Scott Heath stated that this position would be a part of the Sheriff's budget. Troy Cook advised that this was a two year grant. Sheriff Frye stated that when the county took over this position that they could decide if the position would still be an asset forfeiture position or something else. Sheriff Frye advised that this position would be more of a clerical administrative type position. Glenn Johnson questioned if another position would be more valuable to the Sheriff's office than the asset forfeiture position. Sheriff Frye replied that a road officer position would be more valuable but there was not a grant for that position. Mr. Cook explained that the Governor's Crime Commission's top priority is that the project be maintained after federal funds are no longer available and Mr. Cook felt the asset forfeiture position could be maintained at no cost to the county. Chairman Poteat stated that Mr. Heath made the best point of all that the Sheriff should realize that he may be trading off a car for this person and that he might not get one penny more in the upcoming budget.

Vote: 4 to 1; Martha Hicks voted against.

Jail Inspection

Chris Brackett, Jail Inspector, reported that there are deficiencies noted at the Avery County Jail. In several instances it was noted that there is an average of 30 prisoners housed. There is a liability with exceeding the maximum capacity and this is a concern which may be prevented with proper supervision. Sheriff Frye stated that the problems that are occurring with supervision of the inmates were during visitation, meals and booking people in. Sheriff Frye said that if the Board would allot him around \$15,000 between now and July 1, 2010 that he could hire 4 part time jailers that would work an average of 20 hours per week with no benefits and this would cover the daylight hours. He asked the Board to come by the jail before making any decision.

Finance Office Report – Tim Greene

Tim Greene, Finance Officer, reported that there is an unfunded liability that the County has for other post employment benefits that are due to the people that have worked for Avery County for 20 years or are 55 years old and retire and the County provides medical insurance for 55-65 and the County reimburses up to \$2000. The unfunded liability is one and a half million dollars. This has been paid for in the past as it is incurred but the County might want to set aside some hard numbers for that.

Budget Amendment #

Pursuant to the October 19, 2009 board meeting, a budget amendment will be necessary to transfer \$1,140,000 from the Capital Reserve Fund to the Banner Elk School Fund.

Motion by Scott Heath and second by Glenn Johnson to approve the Budget Amendment with a debit of Proceeds from Sale of Assets (433505.0000) of \$1,860,000 and a credit of other Financing Sources (433905.0000) of \$1,860,000. Motion unanimously approved.

The Finance Officer stated that due to the previous decision to transfer additional monies from the Capital Reserve Account, it is necessary to review the Banner Elk School Capital Project Ordinance.

Motion by Phyllis Forbes and second by Martha Hicks to approve the Banner Elk School Capital Project Ordinance as printed. Motion unanimously approved.

Budget Amendment #

The Avery County Jail has received a United States Department of Justice State Criminal Alien Assistance Program grant in the amount of \$5,482.00.

Motion by Martha Hicks and second by Scott Heath to approve the Budget Amendment with the debit of Capital Outlay-Office (105200.7400) of \$4386.00 and a debit of US Dept of Justice Grant (103614.0000) \$1096.00 and a credit of US Dept of Justice Grant (103614.0000) \$5,482.00. Motion unanimously approved.

County Attorney Report – Michaelle Poore

The County Attorney reported that she had nothing that required the Board's attention but the Board did need to go into Closed Session.

Closed Session

Motion by Phyllis Forbes and second by Glenn Johnson to go out of Regular Session and into Closed Session at 7:27 p.m. regarding NC GS 143-318.11 (a)3 Attorney/Client Privilege. Invitees would be the Board, County Manager, Clerk, County Attorney and Tommy Burleson, Director of Inspections. Motion unanimously approved.

Chairman Poteat stated that the Board was back in Regular session after a time of Closed Session. During closed session, no decision was made and no vote taken.

Approval of Minutes

Motion by Scott Heath and second by Glenn Johnson to approve the minutes for the Regular Meeting of October 19, 2009 and regular Meeting of November 2, 2009. Motion unanimously approved.

Agenda Consent Items

Agenda Consent Items adopted by consent.

Upcoming Meetings

The Christmas Luncheon will be December 16, 2009 at 12:30 p.m. at the Newland Baptist Church Gym.

Glenn Johnson stated that today was the 68th anniversary of Pearl Harbor and that these people should be recognized for their service.

Phyllis Forbes thanked everyone for the money, gifts and prayers during her time of loss.

Adjourn

Motion by Scott Heath and second by Glenn Johnson to adjourn this meeting at 8:15 p.m. Motion unanimously approved.

**Kenny Poteat, Chairman
Avery County Board of Commissioners**

ATTEST: _____
Cindy Turbyfill, Clerk