

STATE OF NORTH CAROLINA
COUNTY OF AVERY

The Avery County Board of Commissioners met in Regular Session on October 5, 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; Scott Heath; Glenn Johnson; Martha Hicks

Members Absent: Phyllis Forbes (due to illness of family member)

Call To Order

Chairman Poteat called the meeting to order at 3:32 p.m.

Glenn Johnson led prayer.

Chairman Poteat stated that if anyone would like to speak to an agenda item they must sign up on the sheet with the clerk but there would be a time of public comment also.

Toe River Health District Board

The County Manager stated that Susan Pittman has decided not to seek another term as a general public member. He said that anyone who is interested in applying for this position should do so with the clerk to the board. Chairman Poteat stated that any Commissioner who knew a good candidate could encourage the person to apply for the Toe River Health District Board. By consensus of the Board, this position will be considered at the meeting on November 2, 2009.

Public Comments

Chairman Poteat stated that Phyllis Forbes' seat is vacant; her husband is in Asheville hospital. He said that it is unknown at this time when Ms. Forbes will be able to return.

Dr. Daniel Barron explained that previously that he had shared with the Board the annual report for the library. Mr. Barron thanked the Board for the continued support for the library. He pointed out that there was 50% increase in juvenile fiction and a 55% increase in juvenile nonfiction; the library has been working hard to work with the childcare facilities and the high schools. There was 117% increase in juvenile fiction and 143% increase in juvenile nonfiction bookmobile circulation. The library is working very closely with Avery Smart Start also. There is a 125% increase in internet use and in the Avery Morrison Library there is an average of 84 patron contacts with internet use per hour.

Junior Sluder stated that it was commented on at the last Board meeting that the planning board did not personally agree with having anyone on the Board with a special agenda. Mr. Sluder stated "you can't tell me that special agenda is real estate people, surveyors, etc because they want to get every lot out of every piece of land so they can sell it. The reason I say every lot is sometimes they could take an extra lot and make it safe for people to use the road like EMS, fire, etc. We are talking about safety and that is why we feel like the fire association needs someone on that board." Mr. Sluder said that the Fire Association was not accepted as well as they should be with the planning board. Mr. Sluder asked that a Fire Association member be considered when the next opening on the planning board was available.

County Manager Updates – Robert Wiseman

Vicious Dog Committee

Robert Wiseman, County Manager, advised that the Board of Commissioners had been appointed as the vicious dog committee when the sheriff was designated as the vicious dog control officer. There has not been an issue come up but it should be considered having the vicious dog committee as a separate entity from the Board of Commissioners. Mr. Wiseman stated that the Board's time would be better spent addressing more important issues than a vicious dog.

Public Hearing – Proposed Changes to the Avery County Subdivision Ordinance

Motion by Martha Hicks and second by Scott Heath to go out of Regular Session and into a time of Public Hearing regarding the Proposed Changes to the Avery County Subdivision Ordinance at 3:50 p.m. Motion unanimously approved with those in attendance (4-0).

Chairman Poteat read aloud a portion of the Resolution to Amend the Avery County Subdivision Ordinance which stated "1. That the ordinance was enacted in 1993 and several amendments have been approved by the Avery Board of Commissioners since that time; 2. That the Avery Planning Board has recommended several technical changes to the Ordinance, such as renumbering paragraphs, changing the used forms and other changes set forth on Exhibit A attached hereto and incorporated herein by reference."

Michaelle Poore, County Attorney, stated that a few months back that the Board had requested that the County Manager ask Mr. Glen Rhodes to review the Subdivision Ordinance which Mr. Rhodes has done so and sent a list of the recommendations to the planning board. The planning board has reviewed these changes and approved the 19 items listed before you. Most of these changes are the references in the ordinance to the most current statute. The County Attorney stated that these changes were pretty

straightforward and she did not see any problem with these changes. The County Attorney advised that once the Board came out of the Public Hearing and the changes were voted on that there would need to be a second vote at the next meeting because there is not a full board. The second vote at the next meeting would not require a full board.

Motion by Martha Hicks and second by Glenn Johnson to go out of the Public Hearing regarding the Proposed Changes to the Subdivision Ordinance and back into Regular Session at 4:06 p.m. Motion unanimously approved by those in attendance (4-0).

The County Attorney stated that the Board can vote today but because there is not a full Board there would need to be a second vote at the next meeting. The second vote would not require a full board.

Motion by Scott Heath and second by Martha Hicks to approve the Resolution to Amend the Avery County Subdivision Ordinance. Motion unanimously approved with those in attendance (4-0).

Scott Heath stated that he understood that the Board should be receiving some changes that the planning board and fire association have been working on. The County Attorney said that these would be significant changes and deletions. Loretta Smith, Ordinance Administrator, advised that she had everything but one section and as soon as that section was finished she would give them to Mike Lacey, Chairman of the Planning Board.

Recess

Chairman Poteat called for a 3 minute recess.

Chairman Poteat stated that the Board was back in Regular Session after a brief recess.

County Manager Updates Continued – Robert Wiseman

Statewide Disposal Ban

The County Manager reported that a statewide disposal ban on wooden pallets, plastic bottles and oil filters in solid waste landfills became effective on October 1, 2009. He stated that there was an article in the newspapers that as of the first day of October every county in the state of North Carolina is mandated to recycle plastic containers, oil filters, and wooden pallets. This is not an Avery County mandate; this is statewide in an effort to reduce the waste stream going into the landfills. The County Manager stated that out of 7 of the convenience sites 5 were set up to handle recycling plastic. Scott Heath advised that sometimes the recycling bins for plastic get full pretty quick and that these should be emptied more often.

Public Hearing – Criminal Record Check Ordinance

Motion by Martha Hicks and second by Glenn Johnson to go out of Regular Session and into a time of Public Hearing regarding Criminal Record Check Ordinance at 4:30 p.m. Motion unanimously approved with those in attendance (4-0).

The County Attorney stated that the State Bureau of Investigation was reviewing the ordinance and that she had just heard back from them today with approval of the ordinance. Tim Greene, Finance Officer, advised that when new people are hired background checks are done informally through each department. At this point the County could hire a company to do background checks but that it is expensive and there is another option where the sheriff's office could run a check through the DCI but this cannot be done unless the Criminal Record Check Ordinance is in place. This will allow departments to do background checks at basically no cost. The County Manager stated that the sheriff has no problem with doing these checks. Sheriff Kevin Frye said the only concern with him would be the turnaround time for the background checks. He stated that there is no cost for running through the DCI. The County Attorney said this would be done on the final applicants for the job. Scott Heath questioned if the wording regarding the "designee of the County Manager may conduct an investigation" would be too loose of a term to use. The County Attorney answered that if the Board wanted to word it as just the County Manager or Assistant County Manager that could be done. Chairman Poteat stated that in his opinion because "designee" is so broad that possibly this should be just the County Manager to do this and do away with the "designee" term.

There was considerable discussion regarding the Criminal Background Check Ordinance. There were no further public comments.

Motion by Martha Hicks and second by Scott Heath to go out of the time of Public Hearing regarding the Criminal Record Check Ordinance at 4:58 p.m. Motion unanimously approved with those in attendance (4-0).

The County Attorney stated that since there is not a full Board this would require a vote at this meeting and another vote at the next meeting. Scott Heath suggested that the County Attorney take this ordinance and look over it more. Chairman Poteat stated that there were certain pitfalls with this ordinance and the Board would await further studies on this issue.

Resolution Opposing Consolidation of the Hickory Processing and Distribution Center

Glenn Johnson stated that an email had been received from Rudy Wright, Mayor of Hickory, and they were asking the Board to pass a resolution opposing the consolidation of Hickory Processing and Distribution Center. Mr. Johnson said he was concerned about the unemployment rate in Catawba County but was more concerned with the people of Avery County with regards to a service issue. Eric Wright with the United States Postal Service explained that as far as service issues if the processing center moved to Greensboro there could be a delay with the mail. If the plant is completely shut down this would affect everyone locally as far as service. Mr. Wright stated that if you lose 286 zip codes which entail western North Carolina that would lose the identity of the area. Glenn Johnson said that this could be a safety issue with the mail coming in later and getting the mail out especially in the wintertime in Avery County. Scott Heath questioned why he would want to put his name on a resolution that doesn't improve efficiency and cost cutting. Mr. Wright answered that there were other cost cutting ways instead of the consolidation. Mr. Johnson and Mr. Wright will compose a resolution specifically pertaining to Avery County and will present it at the next meeting.

Tax Collector Report – Phillip Barrier

Phillip Barrier, Tax Assessor, presented the Tax Collector Report in the absence of Mary Daniels. The total collections for the month of September 2009 are \$1,311,200.00.

Motion by Martha Hicks and second by Glenn Johnson to approve the Tax Collector's Report as presented for September 2009. Motion unanimous with those in attendance (4-0).

Tax Assessor Report – Phillip Barrier

Real and Personal Releases

The Real and Personal Releases for the month of September 2009 is County Tax \$4,694.75; Fire Tax \$505.67 with total taxes released of \$5,200.42. The \$4000 was rebilled to the correct owner.

Motion by Martha Hicks and second by Scott Heath to approve the Real and Personal Releases for September 2009 as presented. Motion unanimous with those in attendance (4-0).

Motor Vehicle Releases

The Motor Vehicle Releases for the month of September 2009 is County Tax \$17.65 and Fire Tax 1.91 with a total taxes released of \$19.56.

Motion by Glenn Johnson and second by Martha Hicks to approve the Motor Vehicle Releases for September 2009 as presented. Motion unanimous with those in attendance (4-0).

Motor Vehicle Refund

The Motor Vehicle Refunds for the month of September 2009 is County Tax \$6.20; Fire Tax \$0.67 with a total taxes to be refunded of \$6.87.

Motion by Scott Heath and second by Glenn Johnson to approve the Motor Vehicle Refunds for the month of September 2009 as presented. Motion unanimous with those in attendance (4-0).

Mr. Barrier stated that the schedule of values was currently available for public inspection and the clerk also had a copy. The public hearing regarding the schedule of values is scheduled for Monday, October 19, 2009.

County Manager Updates Continued--Robert Wiseman

The County Manager stated that there was a surplus sale today and all of the surplus was sold today. He said there was now an action plan in place so that we would not get a stockpile of ceased items.

Policy Review

The County Manager explained that he was in the process of an annual policy review which he would bring to the board at the upcoming meetings.

Accommodation for Probation Offices

The County Manager reported that Jerry Jackson, District supervisor for the Probation Offices, had made the County Manager aware of an unfunded state mandate as of December 31, 2009 where the county will have to provide space for every probation officer which would mean that the County would have to pay the rent on the rented spaces in Banner Elk. The County Manager stated that he and the Finance Officer had talked about that and this would require a budget amendment at some point in time.

Energy Exchange Lease

The County Manager stated that the lease has been voided because of the fact that the Energy Exchange had sublet the lease which is specifically restricted in the contract. The County Attorney said that the Energy Exchange was prohibited from subleasing the property near the airport where the greenhouses were located. The County Manager stated that there were a considerable amount of plants in the greenhouse at this time and that he had contacted the grower to explain that the lease had been

violated and when those plants are moved out not to put any more in the greenhouses. He said that the Airport Authority has a long range plan that would include that property.

Banner Elk School Annexation

The County Manager stated that the time has come to discuss in conjunction with Banner Elk and the Board of Education the intentions to petition the town of Banner Elk for annexation of the Banner Elk School property. He said that he would suggest a meeting with the Board of Education, Board of Commissioners, and Town of Banner Elk to lay some ground work as to when to petition for annexation and what the terms would be. The County Manager advised that there had been some discussion informally in the past that there was some interest in Banner Elk being able to drill a well as a source of water supply. Scott Heath stated that there were a lot of issues with the building of a new school that has advantages for the county, town and the children of Avery County. A meeting will be scheduled that would include Scott Heath, Chairman Poteat, the County Manager, and representatives from the Town of Banner Elk and the Board of Education.

Statement of Revenues and Expenditure Projections 2009/2010 Mayland Community College

The County Manager stated that the Finance Officer had reviewed all these numbers and that the numbers were correct. The need for this statement was generated from the community college system.

Motion by Scott Heath and second by Martha Hicks to approve the Statement of Revenues and Expenditure Projections 2009/2010 Fiscal Year – Mayland Community College. Motion unanimous with those in attendance (4-0).

Finance Office Report – Tim Greene

Budget Amendment

The Department of Juvenile Justice & Delinquency Prevention has reduced the funding for the JCPC Program due to state budget cuts. The programs were cut a total of \$5,104.00 which is made up of \$3,926.00 in state funding and \$1,178.00 in local funding.

Motion by Martha Hicks and second by Glenn Johnson to approve the budget amendment with the Debits of \$1,068.00 (103480.0000); \$753.00 (103490.0000); \$597.00 (103491.0000); \$1225.00 (103492.0000); \$283.00 (103493.0000); \$1178.00 (103990.0000) and Credits of \$777.00 (107000.6121); \$1592.00 (107000.6130); \$1388.00 (107000.6145) \$368.00 (107000.6147); \$979.00 (107000.6148) pertaining to the JCPC program. Motion unanimous with those in attendance (4-0).

Budget Amendment

The Senior Center has received \$2,653.00 from the NC Department of Insurance to be used for counseling Medicare recipients.

Motion by Glenn Johnson and second by Scott Heath to approve the Budget amendment that would allow the Senior Center to receive a grant to be used for senior services with a Debit of \$2,080.00 (105960.0210); \$159.00 (105960.0500); \$249.00 (105960.1400); \$165.00 (105960.3301) and a credit of \$2653.00 (103671.0000). Motion unanimous with those in attendance (4-0).

Budget Amendment

The following budget amendment is necessary to correct the Transfers General Fund and Fund Balance Appropriated accounts which were reversed during the budget process.

Motion by Martha Hicks and second by Glenn Johnson to approve the Budget Amendment to correct the Transfers General Fund and Fund Balance Appropriate Accounts with debits of \$35,000.00 (213101.0000); \$55,318.00 (213990.0000); \$20,318.00 (107000.6220) and credits of \$35,000.00 (213990.0000); \$55,318.00 (213101.0000); and \$20,318.00 (107000.6000). Motion unanimous with those in attendance (4-0).

Budget Amendment

The County of Avery entered into an agreement on 10-26-07 with the NC Department of Transportation and the Banner Elk Volunteer Fire Department. This agreement allowed the Banner Elk VFD to be reimbursed by the Department of Transportation for the cost of paving a portion of the entrance to the VFD. The County has received a reimbursement check for \$7,800.00 which will be forwarded to the Fire Commission.

Motion by Scott Heath and second by Martha Hicks to approve the budget amendment recognizing the paving in front of the Banner Elk VFD with the debits of \$7,800 (107000.6243) (206600.4012) and credits of \$7,800.00 (103990.0000) (203101.0000). Motion unanimous with those in attendance (4-0).

County Attorney Report –Michaëlle Poore

The County Attorney stated that the case of Wayne Johnson versus Avery County had been dismissed. Mr. Johnson has 30 days to appeal the decision.

Approval of Minutes

Motion by Martha Hicks and second by Scott Heath to approve the August 17, 2009 Regular Session Minutes and the September 8, 2009 Regular Session Minutes. Motion unanimous with those in attendance (4-0).

Agenda Consent Items

Agenda Consent Items adopted by consent.

Adjourn

Motion by Martha Hicks and second by Scott Heath to adjourn this meeting at 6:05 p.m. Motion unanimous with those in attendance (4-0).

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

ATTEST: _____
Cindy Turbyfill, Clerk