

**STATE OF NORTH CAROLINA
COUNTY OF AVERY**

The Avery County Board of Commissioners met in Regular Session on Monday, October 15, 2007 at 3:00 p.m. in their offices, Avery County Administrative Complex, Newland, NC.

Members Present: Kenny Poteat, Chairman; Susan Pittman, Vice-Chair; Dan South and Scott Heath.
Members Absent: Phyllis Forbes

Call to Order

Chairman Poteat called the meeting to order at 3:14 p.m.
Dan South offered prayer.

Public Comments

There were no comments from the public.
Chairman Poteat advised that Scott Heath will be here later this evening and Phyllis Forbes is in Florida with her family.
Poteat also announced that the Board will hold a Public Hearing on the High Impact Protection Ordinance at 5:00 p.m. this evening.

Memorandum of Understanding – Youth Sports

The County Manager advised that this has been a pending issue since the formation of the Recreation Advisory Committee. This item was discussed at the recent Joint Meeting with the Board of Education and was referred back for approval by both boards. This document is a Memorandum of Understanding that would require all youth sports organizations that use county facilities to abide by the same regulations. It is a matter of this Board approving it and the Board of Education approving it as well. Dan South said he has been nursing this thing for the past 5 years. He added that some parents are still frustrated with youth Sports in the community and how the money is accounted for, the status and quality of equipment, etc. Though this document is not a fix-all of everything, it is a good start to getting our programs under one umbrella and having an Oversight Committee, South said. Dan said that he has talked with parents and coaches about this Memo and what it requires. It says that coaches will have background checks, have to account for money they take up, etc.

Susan Pittman said she felt this document is good and she hopes that the Recreation Advisory Board will see that someone is looking out for monies that come in so they can provide safe equipment for the little boys. They haven't had new helmets in 15 years and they are aggravated, she said.
Scott Heath agreed that this Memo has been a long time in coming. He said that Robbie Willis had a good article this summer on Youth Sports. It is important to get everybody on the same page with Youth Sports Programs as it benefits everybody. Scott said he thinks this is a good start, a good document and that he will endorse it.

Motion by Scott Heath to adopt this Memo of Understanding for Youth Sports. Motion seconded by Dan South and unanimously approved with those in attendance.

Public School Capital Building Fund (School Technology Request)

Robert Wiseman advised that this topic was recently referred from the Joint Meeting with the Board of Education.
Tim Greene, Finance Officer, explained that the school system has requested \$375,000 for School Technology. It is the ADM Capital Building Fund that comes from corporate income taxes from the State of N.C. These monies help counties to fund technology needs for their school systems or to fund building and renovation projects. Once this \$375,000 is spent, there will be less than \$1,000 left in that fund, Tim said. The ADM Fund is going to be reduced for this year only due to the Medicare swap. He added that there will be about \$100,000 per year deposited in the ADM Fund. There was \$500,000-\$600,000 in that fund at the beginning of this year, but we used some of it for the high school projects, plus the \$375,000 requested today, so that will leave only around \$1,000 in the fund.
Robert Wiseman said that last year we were asked if these monies could be used for the Avery High track project and the answer was "no". Robert added that he felt we need more feedback from the Board of Education on how these monies are spent because we never see any follow-up information on how they are spent once released to the Board of Education. Robert felt that the Board of Education needs to be more accountable to this Board on how the monies have been spent.

Motion by Susan Pittman and second by Dan South to honor the request from the Board of Education to withdraw \$375,000 from the Public School Capital Building Fund ADM to supplement the School Technology Plan. Motion unanimously approved with 4 members in attendance.

Project Manager Position

Robert Wiseman advised that this joint position for a Project Manager was recently brought up at a Joint Meeting with the Board of Education. This position would be used for special projects of both the County and the Board of Education so that we would both be able to have onsite representation to represent our interests to a greater degree than the representation we have from the architect through regular observation portion of our contracts. He added that we won't be looking at any substantial construction projects until next year. He then recommended that this new position be called Clerk to the Works. If this can wait, we need to wait until budget preparation next year so the details can be worked out, Wiseman said. We need to decide if it is a full-time position or if it is just project specific. If we don't have anything going on, do we need a full time position? He added that we have no immediate need right now for such a position. Scott said he thought the Board of Education need someone pretty soon and that he feels that this needs to be pursued. Even though it is the Board of Education and the Board of Commissioners, it comes out of the same pocket and serves the same people. We could do something that benefits everyone with this, Scott said. Wiseman said that upcoming construction projects are turf/track at the High School which will start next spring when school is out; also construction of the extra Jail space and renovation of existing space. Then, in the 2008 calendar year, we will be beginning the new school at Banner Elk.

Chairman Poteat asked that this new position be placed on the Board's Agenda for December 2007.

Banner Elk Day Care

Robert Wiseman advised that access to the Banner Elk Day Care property has been completed. No matter what we do with that property, this is site preparation that has to be done, regardless. We have finished the job and we cannot be back in the creek again before March 2008. There are some ongoing issues with the Town of Banner Elk concerning the location of this facility, Wiseman said. I will update you on those issues at a later meeting. Chairman Poteat added that we had to do the land access project and now we have ingress/egress for our own property that we can use for our own benefit.

Wiseman complimented Tommy Burleson stating that he has set the record for working with the Corps of Engineers. Tommy turned a 401 Corps Permit around in about 2 weeks and it usually takes 2 or 3 months, because we were under the deadline and could not get this permit without it.

Cranberry Water Association Grant Application

Robert Wiseman reported that the Cranberry Water System went defunct over 1 year ago. Robert and Kenny Poteat, Phil Frye, Rural Water, McGill & Associates, etc. came up with a \$ 1 million dollar grant (no match required) to extend the water supply from Elk Park into the Cranberry community to replace this defunct system. The County agreed to serve as the lead agent for the project as Elk Park could not pursue and be awarded this grant. The County agreed to serve as lead agent, which is a pass-through for this money. We applied for the funds and were awarded the grant. Elk Park let the contracts, did the specs, handled the payroll, paid the bills, etc. However, it has been over a year and they have not yet acquired the first right of way. McGill & Associates are responsible for the development of the easements and doing the engineering work, plan and specs. There are around 30 easements that the line will have to go across in order to provide this service to Cranberry. Doug Hall is the attorney for the Town of Elk Park and has prepared the majority of these easements. Some of them have not been prepared. The problem is between him and the engineering firm. Wiseman said that he feels that the Commissioners, as the lead agent, should get this thing off the ground and get somebody who can do this work and get this project going. We have Rep. Phillip Frye's support on this.

The Chair asked if there is a time limit by which these funds have to be expended. Wiseman advised that there is a time limit but that he is not sure what it is. Brief discussion was held.

The Chair advised that by consensus, this Board needs to encourage the Manager to continue working on this matter and we need to do our best to get the water system in place. The Board agreed by consensus.

Wiseman said that he hopes to have a meeting between Elk Park's legal counsel, McGill & Associates, Rep. Phil Frye and myself, and get this worked out. We will find out what they need to get it done and put deadlines and follow-up criteria, etc. If things don't get done in a certain amount of time, then we will have to make a change, Wiseman said.

Friends of the Animal Shelter Proposal

Robert Wiseman advised that the Board has maps which show the physical visual representation of what the project would look like on the ground and a concept of how things would lay. Making this come to fruition will take a joint effort of the Board of Commissioners, Recreation Department, philanthropic concerned citizens and the Fair Board. Over the past month or so since Ann Thompson and Rachel Deal were here asking for permission to pursue this project and come back with a proposal, there have not been many stones left unturned. There has been a lot of dialog between all the stakeholders and not without some agreements to disagree; however, the bottom line is that everybody is joined at the hip on this project, Wiseman said.

There were 15-20 Friends of the Animal Shelter in attendance at today's meeting. Chairman Poteat asked if there was any opposition to this shelter being placed at this particular location. There was no opposition from those in attendance.

Rachel Deal thanked the Board of giving them the chance for the last 6 weeks to see what is available and what they can do to help the citizens of this county. We have talked with the Fair board and to individual citizens in the county and are trying to see what is best for this county and for the seasonal people. We have come up with something that will be wonderful for the entire county and it won't just be a shelter, Deal said.

Ms. Ann Thompson gave a Power-Point presentation on the new Animal Shelter Project.

Ms. Thompson advised that their Mission Statement is to help Avery County respond to the needs of its animals; which is why the Avery County Shelter was formed. Ms. Marty Hyzinga is the person in charge of all of this. She has had 30 years of shelter experience in Ft. Lauderdale, Florida, Thompson said.

Ms. Thompson stated that they had to identify and find their land for the project and that they chose to focus on some of the less desirable land that they thought would still allow for great development but not encroach on the nature trail or other development at Heritage Park. When doing this, we discovered that the entrance to the walking trail at Heritage Park is not on County land. It belongs to the adjoining property owners, David and Linda Cuthbertson. They have negotiated on this and we have worked on purchasing this property that joins Heritage Park because it would grant you entrance forever to the walking trail and other venues you might pursue down there. This is about 2.21 acres of property and it would lower our clearing costs from \$250,000 to about \$40,000-\$50,000.

Thompson said that they recently had a kick-off at Diamond Creek to launch their \$4 million dollar campaign. Ms. Jo Ann Becker summered at Linville for many years and wants to give us \$1.5 million as our seed gift and then she wants to give us another \$100,000 for 10 years in order to help with the cost of the shelter. Ms. Jutta Lopez is a marketing executive and she will be doing our public relations and press campaign for the project. She plans to start our campaign this winter and we will have a larger campaign as the season goes on, Thompson said.

Ms. Thompson said that the fund raising campaign will encompass every area of the County, not just Newland and Banner Elk. We plan to have car rallies, motorcycle rallies, wine tasting, dinners, etc. to give people an opportunity to donate to our campaign. Alice Sudderth also received a check in amount of \$5,000 for our project this morning, plus an in-kind for floor tile for the shelter.

Ms. Thompson said that they will call this facility the Avery County Humane Society Campus, per Jo Ann Becker's wishes. Mr. David Moses, an Avery County architect, will provide the architectural services for our project, Thompson said. She added that the Shelter is environmentally friendly, has air exchange, waste disposal, etc. and is state of the art.

Chairman Poteat asked about amount of acreage they will need for their project. David Moses said they hope to purchase 2.2 acres and will need an additional 5 acres as a good buffer. They are asking for 5 acres today, he said. They are offering a community center with this project for all of Avery County, and it will be called the Becker Building. Rachel Deal said that they are here to propose to the Commissioners that they lease approximately 3-5 acres at Heritage Park at \$1.00 per year for 99 years to the Avery Friends of the Shelter in order to respond to needs of Avery County.

The Chairman asked the Manager if he had any problems with leasing up to 5 acres of County property at the Heritage Park to this organization. Wiseman said that we currently have nothing planned for the area they are requesting and I don't think it would impact negatively on any future construction that would be done here. David Moses said that they had an engineering report prepared on this site by Municipal Engineering. The side slope of this access road is 30 percent and the side slope beyond this is

about 60 percent and impossible to flatten out and of no use for building. That is why we are asking for a little more breathing room. The land goes straight up after a point. Mr. Moses drew on a map the amount of acreage they would need and the area they were interested in. Chairman Poteat said he felt this is a worthy use of this land. These properties were purchased with County money and we have to use it correctly and with what the vision is for the entire County. Wiseman referred the Board to the attachment in their packet regarding Avery Expo activities which is now the Heritage Park property. There is a mission statement and definition of goals of this organization and 25 proposed benefits for the Avery Expo. I don't see anything but positive impacts by the early issues established for this organization early on. There can be educational opportunities, financing opportunities, expansion of the activities at Heritage Park as we now know them. The rodeo was a tremendous success and that is just the tip of the iceberg, Wiseman said. I feel that a lot of opportunities and synergy can be created by these 7 acres and what can be done on it is limited only by our own energy and imagination.

Discussion on amount of acreage requested. Wiseman advised that the total acreage is 55 acres. Approximately 10 acres are currently developed, including the parking lot and ball field. There will be well over 30 acres left after these 5 acres comes out, Wiseman said. Discussion held regarding leasing of this property to this 501-C3 non-profit organization. Dan South expressed concern about the word "lease". He asked if this would encumber us any more than we already are because we are currently trying to get the Fair Board to vacate the lease so we can build something up on the hill for our rodeo. We are getting this property so encumbered that we cannot get any Parks/Recreation money now, and now we are getting involved with another entity, South said.

Michaëlle Poore advised that the Board could make a provision in the lease that the non-profit organization would have to agree with any grant applications that the County would want to make as a part of that lease, if that is a concern of the Board. Marty Hyzinga advised that their organization could either buy the land for \$1 or you could give it to our 501-C3 organization. It would then revert back to the County if the shelter was no longer on the property, she said. Dan South said he wants an Agricultural Center for the 4-H Program on top of the hill and he has been working hard on that for the last year. We would have an Exhibition Hall and not have to rent tents for animals, etc., Dan said. Rachel Deal said that her group also likes the idea of an Exhibition Hall because it enhances the whole program. Discussion continued on use of a portion of the property for an animal shelter. Scott Heath expressed concern that the County would still have access to the southern border of our property at Heritage Park. If we were to sell some of that property to you, we would want a right-of-way to gain access, Heath said. Chairman Poteat agreed that the ingress/egress issue needs to be worked out. Mr. Moses said that along with their road, they could build the County an easement way in or around our property.

Robert Wiseman stated that a commitment from this Board, contingent upon approval by our legal counsel, would give these folks the assurance they need to proceed with their property acquisition of 2.2 acres. Discussion on whether or not any approval is needed from the Fair Board on this matter. Michaëlle Poore advised the Board that they do not have to have any approval from the Fair Board to use this portion of the property. Robert Wiseman commented that we do want to go into this project with a spirit of unity because when this comes to fruition, all of the organizations involved are going to be positively impacted. The Chairman then asked for a motion from the Board on this issue.

Motion by Scott Heath that Avery County sell or lease from 2 to 5 acres of property at Heritage Park to the Friends of the Animal Shelter with the conditions that the County has right-of-way access to the southern border of our property before we approve the lease and also that as a part of this Lease Agreement that the non-profit organization agrees with any grant applications the County would want to make. This is being done in order for them to move forward with their program. The details can be worked out under the conditions as stated. Motion seconded by Dan South and unanimously approved with 4 members in attendance.

Disaster Funds

Robert Wiseman advised the Board that we have installed a new roof and have a new paint job on the Avery Center Senior Building with our disaster funds.

Finance Office Report – Tim Greene

Budget Amendment #

School Resource Officer Position

Tim Greene advised that the Avery Sheriff's Dept. has taken over the School Resource Officer from the Avery Board of Education. The Bd. of Education will reimburse the County for 10 months actual

expenses. The remaining two months will need to come from the Sheriff's Dept. current budget or from Fund Balance.

At a later date we will need to decide how to handle the remaining 2 months of expenses, approximately \$6,000. This is a 10-month position but the Sheriff plans to utilize this position elsewhere, too, Tim said. Tim advised that the County will be reimbursed by the Board of Education on this position.

Motion by Susan Pittman and second by Scott Heath to approve a Budget Amendment in amount of \$32,853.52 for line item School Resource Officer, and that these monies are to be reimbursed by the Board of Education. Motion unanimously approved.

County Attorney Report – Michaelle Poore

Michaelle Poore advised that she has nothing that requires Board action at this time.

Chairman Poteat expressed appreciation to Michaelle for all of the work she has done on this High Impact Protection Ordinance.

Approval of Minutes

Motion by Scott Heath and second by Susan Pittman to approve the Minutes of the September 25, 2007 Workshop on the High Impact Protection Ordinance and to approve the October 1, 2007 Regular Board Meeting. Motion unanimously approved.

Agenda Consent Items

Dan South commented on the information from the Sheriff Dept. in the Agenda Consent Items regarding Courtroom security. The Manager advised that we have had lengthy conversation on this issue previously and that all of the Judges have also had input. Susan Pittman commented that since the Resource Officer position is for 10 months, he could work the other 2 months in the Courtroom to help with security. Robert referred the Board to the Budget Comparison Sheet for the Sheriff and Jail budgets in their packets. He advised that to date, there has been a 20% increase over last year in the Sheriff's budget. Wiseman then recommended that as we are limited in the amount of time we have to discuss these issues today, that we agenda this for a future meeting. The Board agreed.

Budget Process

Scott Heath commented that once we get some pressing issues handled, such as the High Impact Ordinance, that he wants our County Manager to bring back to the forefront the joint effort with the Health District whereby Avery County pays more than their fair share. I would like to get back into that issue again to have equity among the 3 partners and all of the options we have if they don't want to be equitable. Robert stated that we also need to give attention to setting up a Retreat for the Commissioners as previously discussed, so we can discuss items such as this and give them a special setting and time of their own, rather than trying to resolve them in a Regular Meeting.

The Agenda Consent Items were approved by consensus.

The Chair announced that the Board will begin their schedule of one Regular Meeting per month, starting in November.

Recess

The Chair called a brief Recess at 4:43 p.m. The Board will reconvene in a Public Hearing at 5:00 p.m. this evening.

Reconvene

The Avery County Board of Commissioners reconvened at 5:00 p.m. for the purpose of holding a Public Hearing on the proposed High Impact Protection Ordinance for Avery County.

Public Hearing – Proposed High Impact Protection Ordinance

The Avery County Board of Commissioners met in a Public Hearing to receive public comments regarding a proposed High Impact Protection Ordinance for Avery County

Members Present: Kenny Poteat, Chairman; Susan Pittman, Vice-Chair; Dan South and Scott Heath

Absent: Phyllis Forbes

Also Present: Robert Wiseman, County Manager, Michaelle Poore, County Attorney, Tommy Burlison, Avery County Inspections Dept. and Members of the Avery County Planning Board.

Call to Order

Chairman Poteat called the Public Hearing to order at 5:03 p.m.

Motion by Scott Heath and second by Susan Pittman for the Board to go out of Regular Session and convene in a Public Hearing at this time. Motion unanimously approved with 4 members in attendance.

Sign Up Sheet

Chairman Poteat asked everyone who wished to speak to sign the Sign-Up Sheet—either For, Against, or having Questions/Concerns.

There were approximately 70-80 persons in attendance at this Hearing.

Chairman Poteat stated that this is a decision that affects all of Avery County, not just one special interest group. The Planning Board has spent over 50 hours in preparation of this document. This Board has also held 3 Workshops and spent over 10 hours in discussion on this Ordinance. A lot of thought has gone into this and it is very important to all of us, Poteat said.

For the benefit of the public, Chairman Poteat then read aloud some information regarding the various classifications of High Impact Industry (Classes 1-7) and the amounts of set-back required for each Class. He also read aloud from Article IV of the Ordinance regarding Pre-Existing High Impact Industries and from Article VI - Appeals and Variances.

Speakers

Approximately 17 persons signed up to speak in favor of the Ordinance. Two persons were opposed and two persons had Questions/concerns. The two persons who were opposed decided they would like to be moved to the Questions/Concerns classification, so there were no persons listed as being opposed.

For Proposed High Impact Protection Ordinance

Mr. Jason Warner was the keynote speaker for the group. He thanked the Commissioners for their hard work and consideration on this Ordinance. Warner said that his group would be asking for a few changes tonight in the Ordinance. He said that Avery County needs this Ordinance now, and he spoke to that need.

Questions/Concerns about the Ordinance

There were 4 persons signed up to speak about Questions/Concerns.

Mr. Jack Howard, Blue Ridge Propane Representative, said that he is not opposed to the Ordinance. His concern is that his business is regulated by the State and has been for 50 years under the NFP 58 Regulations, which cover everything they do. We have a 50 ft. distance requirement which the State approved and we are in compliance with the State, Howard said. He urged the Board to look at what Pamphlet 58 has and look at the 600 feet the Board has listed for a setback for this Class. Howard said that he has two 30,000 gallon propane tanks at his business.

For

Teddy Johnson spoke in favor of the Ordinance stating that he has learned from his ordeal that if the proposed Rock Quarry was going to be placed anywhere else in the County he would not care. Unless directly affected, most of us stay out of it. I learned that I cannot protect my family from everything the world throws its way. I am thankful for my neighbors who care and who are trying to help. We are not attacking existing industries, just asking that new industries be regulated to help those around them, Johnson said.

Questions/Concerns

Mr. Clarence Laws stated that he owns 11.5 acres at the foot of the mountain from Wildcat Cliffs. He has breathing problems as does his wife. He said that the dust from a Rock Quarry would shorten his life considerably. His family uses spring water from that mountain and the Quarry will damage the water beyond use, Laws said. I am asking the Commissioners and public to vote against this Quarry. The wind will blow dust from the Quarry on us and we both are on oxygen during the day and at night. I have inhalers and have doctor's excuses. I am a Minister and believe in standing up for my own rights and I don't want to hurt anybody, Laws said.

For

Charles White provided the Board with a copy of some comments which he made at a DEHNR meeting some time ago. Mr. White had a sample of water from the North Toe River near where the Rock Quarry is planned. The sample was clear. He said that in the 1950's Harris Mining opened operation on Gusher's

Knob and extracted clay and mica. When they extracted the clay and mica and were finished with it, they dumped the rest in the river (he provided a milky white water sample). That is what the river looked like all of my younger years, and it also had a bad odor. It has a load of chemicals in it that are used to extract clay and mica, plus a lot of sand. The river was clogged. I don't want to see our river like that again. This Quarry has the potential to do the same thing again, but maybe not to the same extent as Gusher's Knob. If the settling pond at the Quarry breaks, we will be right back to what you have in that jar, White said. What we have after 50 years of the river cleaning itself is a clear sample.

Questions/Concerns

David Grindstaff commented that he is looking into starting a propane storage business himself. It would take over 16 acres for me to set up a storage facility such as the one Jack Howard (Blue Ridge Propane) has, according to this Ordinance. He asked the Board to take into consideration that NFPA 58 information that Jack provided them. Grindstaff advised that he is thinking about installing a 45,000 gallon propane tank at his business. By the time I get the setbacks and actual working area where storage would be, it would take at least 16 acres as it is written now just to have what Jack has, Grindstaff said. He asked the Board to look at this Ordinance again.

For

Paula Johnson said she was speaking for the Ingalls and Green Valley Communities in favor of this Ordinance. She asked to reinstate the provisions that authorized the consultation with the Blue Ridge Parkway about proposals that could impact the view shed, which is a vital asset which must be protected. Alleghany County has this provision in their ordinance and Avery should as well, Johnson said.

Questions/Concerns

Jerry Potter said that the price of gravel has gone up from \$175 to \$450 for a tandem load. He said he is sick of hearing about this Parkway thing. What about Smokey Straight or Elk River where they are putting in these new housing developments? Sooner or later our water tables are going to be destroyed. Banner Elk figures they are going to be in trouble in the next 10 years. A logging road will heal itself, but a paved road won't. The streams in Avery are about half what they were 20 years ago. I think the Board needs to talk about over-development rather than worrying about one industrial site, Potter said.

For

Jenny Grindstaff asked the Board to restore the original version of the Ordinance in regard to the noise mitigation provision. She didn't feel that the expert who spoke at the Public Hearing was correct and she felt that the 45 decibel level is possible. She felt that setting the limit 5 decibel levels higher can be harmful and that we need good noise limits for good measure. We ask that you put the cost of noise control on the industry and not on the neighborhood. Please restore the original noise limits; good industry can live with them she said.

Questions/Concerns

Bobby Loven said the main focus is a quarry coming into the County. The fact that we have included a lot of other industries into this problem is unfortunate. I would like to see the County address the Quarry. Until recently, our business was not High Impact or polluting. I feel this is the beginning of zoning for the County; just the next step from it. We are in a place where people appreciate their freedom. If this is what the people are for, then I will go along with the majority. One part of this Ordinance states that agriculture is omitted. However, certain farming industries make noise. This Ordinance will affect everybody in this room in time. If it is just a quarry issue, then address the quarry.

For the Proposed Ordinance

Bob Harris said that he lives on Allen Mountain Lane, close to the proposed Quarry. We need this Ordinance to protect us against the blasting and water, broken windows, cracked foundations, etc. near the quarry. This Quarry could contaminate the Toe River and Spruce Pine's water supply if their holding pond breaks. This is not an industrial county. Industry has its place in the community but not with our housing community, Harris said.

Marcell Valencia said she felt it is time for the citizens to be so concerned about our environment that they do something. This is the land of my forefathers came and worked from morning to night to get food, and it is the land of my tranquility. For my children this will be a land to come home to, remember their ancestors and stay connected to their roots. It is a place for animals to flourish. We need to live responsibly and be good caretakers of our land, Valencia said.

Mary Tichenor said that within the next 25 years the population will increase by 4.5 to 5 million persons, the equivalent of the State of South Carolina moving to North Carolina. We are number 5 in attracting retirees to relocate. We lead in biological research zones. Energy crisis is the #1 crisis facing us and the water shortage is the #2 crisis. Economic development is expanding west from Raleigh/Durham toward us. She asked the Board to consider the changing demographics of Western N.C. and the opportunity to look beyond the current industries to the world of technology and biological research and also our natural beauty of the land. In autumn, every leaf is a flower.

Frank Johnson advised he bought some land in that area of the proposed quarry. He asked if heavy industry should be allowed in such areas. The applicant for the quarry has no access rights and is making improper claims to the government offices in order to get access, Johnson said. They need from 18-20 feet of road access. Storage and truck loading should not be allowed due to the noise. The school bus travels this road every day and we don't want the kids hit by one of these trucks.

Jerry Pendley said he has worked in 2 rock quarries and has been sick ever since. All of that dust will come off of the mountain from the quarry. He said he is also concerned about the water in that area. If you can prove that industry damaged your water, then they have to fix it. The quarry will need 50,000 gallons of water per day, and right now there is no way to get that much water. I have had a spring for 27 years and it is hold up good; if they hit a vein, it could run that water off anywhere and there will be no streams. The water in North Carolina is already down by 20%.

David Purcell, acoustical consultant from Asheville, NC, said that he did a presentation for the Planning Board in August to show them what certain noise levels were. He recommended that they not exceed 45 decibels for a daytime level. It was changed because whoever held the sound meter could not get it to go to 45 decibels he said. The noise levels were changed and were moved up. He did noise measurements at Old Hanging Rock Road today and they were in the 30 decibel range he said. He said that the maximum you should put there in the daytime is 45, and if you go beyond that you can expect lawsuits and complaints because that will change the temper of the community. Sounds travel for miles. If these things are not taken care of, you will have trouble meeting the 45 decibel range. I expect that you will need a mile buffer in order to let this man do his job at the quarry and not affect the area where he is going to be working. There is nothing there but birds, wind and crickets. The noise information about measurements and what should and should not be done needs to be addressed, but I don't have time to do it in 3 minutes, Purcell said.

Purcell said he would advocate 45 decibels during the daytime and 35-40 decibels at night in a quarry setting. He advised that the 65 day and 55 night levels in residential settings (currently in the Ordinance) should be lower than that if you want to maintain that community the way it is now.

Sharon Chrisawn was unable to attend due to illness, and Jason Warner spoke on her behalf. Ms. Chrisawn lives across the river from the proposed quarry site. She is concerned about the screening requirements and she liked the foliage idea that was proposed. She doesn't think that screening will help on steep slopes like Bursleson Bald. She is concerned that it will be as visible and ugly as the quarry on Hwy. 105 and won't help noise abatement. That is why she feels setbacks should be kept at least as they are. She doesn't think the current screen plan will help. She is suggesting following the lead of Jackson, Macon, Ashe Counties, etc. in that piles are no higher than 35 ft. and the slope is less than 45 feet. She feels operations should be restricted to 9 am to 5 pm, and no work on weekends.

Rebecca Warner referred to the statement by Mr. Potter about the price of gravel and about the quarry that had to be shut down in Cranberry due to its effect on the Appalachian Trail. She said the price of gravel is less than he said. The price has gone up approximately 50% in the last 10 years. This is not just about the quarry. It is something the County needs and it is not zoning the entire county. It is just zoning for high industrial zones, which is necessary, Warner said. It does not affect Loven Concrete; you are grandfathered in and are a good citizen and meet state requirements, she said. Mr. Grindstaff needs 16 acres to put in his propane storage business. If you can't afford to do it right, then this is not the County to do it in. This County expects people to be good citizens, Warner said.

Matt Linnvall read a prepared statement and thanked the Board for passing regulations to regulate asphalt plants. The state regulations are not enough he said. They will only get rid of half of the dust if the Quarry does everything they say they will do. He asked the Board to adopt this Ordinance and thanked them for all their hard work.

Jase Deyton said he agrees with the points made tonight. Gravel has gone up less than any other quantity I know of. Nobody will care how much rocks cost when they don't have water to drink and have

to fly it in from New Zealand. The only person that I have heard that wants a quarry is Mr. Carpenter. I think that the watershed and the quality of life are more important than just trying to control the price of gravel. Rocks are everywhere and we just have to crush them up and haul them off. That is not what Avery County's future is about in my opinion, he said.

The Board took a brief Recess at this time.

For the Proposed Ordinance

Wendy Wholters advised that her family lives at Georgia's Lane. She and her Mother have breathing problems and this rock quarry will put more stress on that. Since moving back to Ingalls, I don't have to take my breathing medicines and don't want to have to go back to taking them, she said. The Ingalls area is one of the quietest places on earth; all you hear during the day is birds. I don't want to lose that. If the quarry was anywhere else, I could care less; it is going to be in my back door and I don't want it there.

Arnold Laws said he is a hard rock miner and works at Unimin and Green Mountain. I would not want my kids growing up in a rock quarry. There is noise and dust that you cannot control. I am against the crusher on the mountain. We need the jobs in the County, but we don't need them that bad. If they treat the dust, it still doesn't work. Then they take shots, you can feel the ground shake. It is very dangerous and I am highly against it, he said.

Doris Kirby thanked the Board for their courage in taking on this Ordinance as it is a very challenging and controversial issue. We own a couple of acres on the North Toe River but we live in Atlanta, Georgia. Our plans are on hold about living here until we see the outcome of this issue. Coming from Atlanta, I want to emphasize that the water is a major issue. Atlanta has 3 months of water left right now. You still have water here in Avery County. This is an indispensable gift from God and I hope you use that in making your decisions. You may be helping future generations have access to clean water.

The public comments were concluded at this time.

The Chairman advised that the Board does not intend to render a decision on this matter tonight. This will necessitate another Workshop as we have had 3 in a series already. A lot of questions were raised on both sides of the issue and need to be talked about. We may have to hold a second public hearing. The County Attorney advised that any significant changes in the Ordinance would necessitate another public hearing. The Moratorium expires on November 10, 2007. Discussion held on that matter. The County Attorney advised that we could meet the advertising requirements and hold a second hearing in the time period from October 29 to November 5, 2007.

The Board discussed holding another Workshop on the proposed High Impact Protection Ordinance on October 22, 2007 at 5:00 p.m.

The Chair advised that after the second public hearing, the Board could render a decision on the Ordinance.

The Chair declared the Public Hearing closed at 7:00 p.m. and called the Board back into Regular Session.

Chairman Poteat advised that by consensus of the Board, there will be a Workshop on October 22, 2007 at 5:00 p.m. to discuss the High Impact Protection Ordinance and that the Board will hold a second Public Hearing on the High Impact Protection Ordinance on November 5, 2007 at 5:00 p.m.

Adjourn

Motion by Scott Heath and second by Dan South to adjourn this meeting at 7:02 p.m. Motion unanimously approved.

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

ATTEST: _____
Nancy H. Cook, Clerk to the Board