

**STATE OF NORTH CAROLINA
COUNTY OF AVERY**

The Avery County Board of Commissioners met in a Regular Session on Tuesday, September 8, 2009 at 3:30 p.m. in the Commissioners Board Room, Avery County Administrative Complex, Newland, NC. This meeting was changed to Tuesday, September 8, 2009 from Monday, September 7, 2009 due to the Labor Day Holiday.

Members Present: Kenny Poteat, Chairman; Scott Heath; Martha Hicks; Glenn Johnson.

Members Absent: Phyllis Forbes

Call To Order

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

Chairman Poteat asked for a moment of silence for Chris Laws, employee of the Avery County Board of Education.

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

Public Comments

Leslie Hayhurst, Avery County Resident and taxpayer and Hospice nurse, stated that Avery County is one of two counties in North Carolina that does not have an animal cruelty investigator. Ms. Hayhurst said there was no reason that Avery County should not have an animal cruelty investigator because this was a nonpaying job and a person could be trained through a police department or the sheriff's department.

Chairman Poteat said basically Ms. Hayhurst's request was for an animal cruelty investigator in Avery County.

Carolyn Murdock, Avery County Resident, read scripture from Proverbs 6:16-19. Ms. Murdock said there were three different newspapers that had articles printed about her daughter that were lies. Ms. Murdock said she would like to see these lies corrected.

Tammy Murdock, Avery County Resident, stated that she was a resident of Avery County and the owner of the "so called abused" animals. She said she felt Avery County needed an animal cruelty officer. Ms. Murdock stated that the horses are doing quite well and the sheriff's department has been down to check on them. She said that she appreciated what the sheriff's department had done.

Linda Asher, Avery County Resident, read aloud research about how animal abuse affects the society as a whole.

Junior Sluder came before the Board regarding the Avery County Planning Board. Mr. Sluder stated that the Fire Association would like to have some input on the Planning Board and would like to see the Planning Board extended at least one or two or if anyone is coming up for replacement that does not want to remain on the Board that the person be replaced with a Fire Association member. Mr. Sluder said there are so many laws under the Fire Marshall and there are some places that the fire departments did not get involved in that were not wide enough to even take his pick up truck. Mr. Sluder stated that he would like to see this issue on the agenda next month.

Chairman Poteat stated that he had received letters of concern from Hal and Carol Brown, Linda Scheuler, H. Taylor White, and Debra Church which were all read and taken very seriously. These letters were concerning the animal cruelty issue. Chairman Poteat stated that there would be no action taken on this today but that this issue would be looked into further.

Public Hearing – Installment Financing Contract For Construction of the new Banner Elk School

Chairman Poteat declared the Board to be in a time of Public Hearing at 3:50 p.m. for public comments regarding installment financing contract for construction of the new Banner Elk School.

Tim Greene, Finance Officer, stated that the public hearing is to give the public an opportunity to ask any questions about the financing for the new Banner Elk School. The County is planning on borrowing a maximum up to 6.5 million dollars.

Chairman Poteat said that he had an Avery County resident call him questioning if the financing of the school would necessitate an increase in taxes. Chairman Poteat read aloud a portion of one of the Resolutions that would be considered today that stated: "The increase in taxes necessary to meet the sums to fall due under the proposed contract will be Zero (0) cents per \$100 valuation and is not deemed to be excessive." The County Manager stated that this school construction would not be a contributing factor to a tax increase. He also stated that the public needs to be reassured that the property of the old

Banner Elk School when it is declared surplus and disposed of according to statute it will be at fair market value and the proceeds will be applied to the debt construction costs of the new Banner Elk School.

Dr. Keith Eades, Superintendent of Avery County Schools stated that the Avery County Board of Education after looking at the bids that came in felt that we had a very competitive bid and are very appreciative of the endeavor to seek financing for the new Banner Elk School. Chairman Poteat advised that there was a rebidding because of the qualifications of the first group and questioned Dr. Eades the amount of the bid that has been accepted. Tim Greene, Finance Officer, stated that 9.4 million dollars is the total cost projected. Jeff Jaynes, Finance Officer for the Avery County Board of Education, advised that the bid was around 6.9 million dollars.

Michaelle Poore, County Attorney, stated that there were three resolutions to be considered and that these resolutions had been forwarded and approved by the Local Government Commission.

Scott Heath asked if there was a date for the groundbreaking of the new Banner Elk School. Dr. Eades stated that the groundbreaking ceremony is scheduled for September 29, 2009 at 4:00 p.m.

Martha Hicks questioned how many children are enrolled at Banner Elk School. Dr. Eades answered that including the Pre-Kindergarten class there are 175 students enrolled at this time.

Chairman Poteat declared that the Public Hearing was closed at 4:00 p.m. and the Board was back in a time of Regular Session.

Chairman Poteat stated that the first Resolution was a Resolution authorizing the filing of an application for approval of a financing agreement authorized by North Carolina General Statute 160A-20. He read aloud two points from the Resolution: "The proposed contract is necessary or expedient because the existing Banner Elk Elementary School is over seventy (70) years old and is outdated and inadequate to serve the needs of the students today. It is necessary that the school be replaced"; and "The increase in taxes necessary to meet the sums to fall due under the proposed contract will be Zero (0) cents per \$100 valuation and is not deemed to be excessive."

Motion by Scott Heath and second by Martha Hicks to adopt the Resolution as read. Motion unanimously approved with those in attendance (4-0).

Motion by Glenn Johnson and second by Martha Hicks to adopt the Resolution Authorizing the Finance Officer to Act in Filing of an Application For Approval of a Financing Agreement Authorized by NCGS 160A-20. Motion unanimously approved with those in attendance (4-0).

Chairman Poteat read aloud a portion of the Resolution authorizing reimbursement for funds expended for the design and construction of the new Banner Elk Elementary School which stated "Whereas, since Avery County does not have adequate funds available to facilitate the project, Avery County intends to acquire installment financing up to Six Million Five Hundred Thousand Dollars (\$6,500,000).

Motion by Martha Hicks and second by Scott Heath to adopt the Resolution Authorizing Reimbursement for Funds Expended for the Design and Construction of the New Banner Elk Elementary School. Motion unanimously approved with those in attendance (4-0).

The County Manager stated that he had an issue on his County Manager updates that concerned Dr. Eades and while Dr. Eades was here he would like to address this issue. He said that Dr Eades and the County Manager had met on the 14th of August to discuss the upcoming petition for annexation to the Town of Banner Elk for the school property. There are some issues that are negotiable when it comes to impact fees and water and sewer rates.

There was discussion regarding a joint meeting with the Board of Education and Board of Commissioners and possibly the Banner Elk Town Council. It was decided to have the joint meeting on September 21, 2009 at 5:30 after the regularly scheduled meeting. The County Manager would contact Banner Elk Town Council to see if they could attend.

Board Appointments – Grandfather Village Planning Board

The County Manager stated that the Grandfather Village Zoning Ordinance requires that the representatives from the extraterritorial jurisdiction to the Village's Planning Board be appointed by the Board of Commissioners. Pete Gerdon has been recommended by the Grandfather Village Council for reappointment to a 3 year term to the Village's Planning Board to be retroactive July 12, 2009.

Motion by Scott Heath and second by Glenn Johnson to appoint Pete Gerdon to the Grandfather Village Planning Board. Motion unanimously approved by those in attendance (4-0).

Mayland Community College – Dr Suzanne Owens

Dr. Suzanne Owens, President of Mayland Community College, stated that the first issue she wanted to bring to the Board was the need for a letter of commitment from the Avery County Board of Commissioners to the Golden Leaf Foundation stating that the Board was committed to continuation of the funding for the maintenance and operations of the Avery Vocational Facility. The letter is necessary to draw down the Golden Leaf Grant for Phase I of the Vocational building renovations. The letter will serve as the required match for funding in the \$200,000 grant; all that was asked is a commitment to keep the building maintained and operational. Dr. Owens read aloud a draft of the letter of commitment. The County Manager questioned if the maintenance and operational included salaries. Dr. Owens answered the salaries of housekeeping, maintenance, utilities, insurance, etc but no funds for programs and no responsibility for instruction was included.

Motion by Glenn Johnson and second by Martha Hicks to approve a letter of commitment that Dr. Suzanne Owens read aloud basically in the read form with possibly subtle changes contingent upon approval of the County Attorney. Motion unanimously approved with those in attendance (4-0).

Dr. Owens stated that a joint resolution would need to be signed by all three counties according to NC General Statute 115D-59, authorizing an unequal appropriation of \$12,500 from Avery County to be used for Mayland Community College operating costs. Dr. Owens read aloud the joint resolution.

Motion by Martha Hicks and second by Scott Heath to approve the Joint Resolution authorizing an unequal appropriation of \$12,500 from Avery County to be used for Mayland Community College operating costs.

Scott Heath questioned if this might start an era of the other counties not giving as much. Dr. Owens advised that since 1994 there has been nothing but agreement between the three counties.

Motion unanimously approved with those in attendance (4-0).

Tax Collector Report – Mary Daniels

Mary Daniels, Tax Collector, reported that the total collections for the month of August 2009 were \$1,845,161.89.

Motion by Martha Hicks and second by Glenn Johnson to approve the Tax Collector Report as presented for the month of August 2009. Motion unanimously approved with those in attendance (4-0).

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

Phillip Barrier, Tax Assessor, reported that the Real and Personal Releases are County Tax \$1,911.69; Fire Tax \$206.30; for total taxes to be released \$2,117.99 for August 2009.

Motion by Martha Hicks and Second by Scott Heath to approve the Real and Personal Releases for the month of August 2009 as presented. Motion unanimously approved with those in attendance (4-0).

Real and Personal Refunds

Mr. Barrier reported that the Real and Personal Refunds for August 2009 are County Tax Refund \$149.60; Fire Tax Refund \$16.14 for total taxes to be refunded of \$165.74.

Motion by Martha Hicks and second by Glenn Johnson to approve the Real and Personal Refunds for the month of August 2009 as presented. Motion unanimously approved with those in attendance (4-0).

Motor Vehicle Refunds

Mr. Barrier reported that the Motor Vehicle Refunds for August 2009 are County Tax Refund \$17.07; Fire Tax Refund \$2.28 for total taxes to be refunded of \$19.35.

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

Schedule of Values

Mr. Barrier stated that the schedule of values is the way that the Tax Assessor's Office revalues all the taxable property in Avery County. Mr. Barrier stated that value is not interpreted but the sales and changes in the marketplace.

Mr. Barrier stated that at the September 21, 2009 meeting the schedule of values will be presented to the Board of Commissioners and a copy available at the tax office for public inspection. On October 19, 2009 there will be public hearing to address any concerns of the schedule of values. The schedules will be

adopted on November 2, 2009 and then there will be four orders of adoption on November 4th, 11th, 18th and the 25th and that is the order and then December 16, 2009 will be the last day for anyone to appeal the schedule.

Reassignment of Lease to Avery County Humane Society

Michaëlle Poore, County Attorney, stated that originally the lease for the new animal shelter was deeded to a new group called the High Country Humane Society and now this society has decided it would be best to have the Avery County Humane Society to handle everything. The High Country Humane Society had purchased the brick house for the Paws and Claws store and has now deeded that to the Avery County Humane Society. The Avery County Humane Society would like the High Country Humane Society to assign the lease interest to the Avery County Humane Society for the 4 acres leased from the County of Avery and the Avery County Humane Society would be bound by all the same terms and conditions that the High Country Humane Society was. The County Attorney advised that her understanding is that these are all the same players, a lot of the same people and actually David Patrick Moses has been on board with the Humane Society and they are ready to sign with a contractor and break ground as soon as possible. The County Manager stated that everything is in place and as soon as the reassignment is official they can begin work. Time is of the essence because one of the first things that would need to be done is work in the creek and after October 15, 2009 until April 15, 2009 working in the creek is prohibited. Chairman Poteat stated that Ms. Forbes had a concern regarding this issue.

Motion by Scott Heath and second by Martha Hicks to approve the assignment of said properties from the High Country Animal Shelter to Avery County Humane Society. Motion unanimously approved with those in attendance (4-0).

The County Manager stated that the closing on the property on Brushy Creek is a done deal. He said that the County now owns that property and that the pipeline dissects that property from corner to corner. One of the things that come out of the transaction is that the gas company does not own the right of way. The County Manager advised that we are in preliminary negotiations as to just what the right of way is worth to them.

County Attorney Report – Michaëlle Poore

The County Attorney stated there was no pending litigation at this time or other business.

Approval of Minutes

Motion by Martha Hicks and second by Glenn Johnson to approve the July 20, 2009 Regular Meeting Minutes and July 28, 2009 Regular Meeting Minutes. Motion unanimously approved with those in attendance (4-0).

Agenda Consent Items

Agenda Consent Items adopted by Consensus.

Upcoming Meetings

September 21, 2009 at 3:30 p.m. is the next Regular meeting. A joint meeting with the Board of Education and Board of Commissioners will be held at 5:30 p.m. on September 21, 2009 after the Regular meeting. The Banner Elk Town Council will be notified of this meeting. September 29, 2009 at 4:00 p.m. will be the Groundbreaking Ceremony at the new Banner Elk School.

Adjourn

Motion by Scott Heath and second by Martha Hicks to adjourn this meeting at 5:10 p.m. Motion unanimously approved with those in attendance (4-0).

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

ATTEST: _____

