

**STATE OF NORTH CAROLINA  
COUNTY OF AVERY**

The Avery County Board of Commissioners met in Regular Session on Monday, March 3, 2008 at 3:00 p.m. in the Commissioners Board Room, Avery County Administrative Complex, Newland, N.C.

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

Members Absent: None.

**Call to Order**

Chairman Poteat called the meeting to order at 3:00 p.m.  
Chairman Poteat offered prayer.

Chairman Poteat stated he had put in the two newspapers an article honoring the Lady Vikings Basketball Team. The Lady Vikings have now won three state playoff games and will be traveling to Winston Salem for the fourth state playoff game on Wednesday, March 5, 2008.

**Public Comments**

Jerry Moody, Cooperative Extension Director, came before the Board with each board member an invitation to a meeting at Mountain Glen Golf Club, March 20, 2008 with lunch at 11:30 and the meeting beginning at 12:00 p.m. This meeting will be a report to the people that will detail the successes and impacts the Cooperative Extension has had the past year. Invitations will be sent to the public as well. Mr. Moody informed the Board the County had made it through the first round of the Farmland Preservation Grant. Mr. Moody will go down to Raleigh on March 12, 2008 for a 2 hour interview to see if the County can secure that grant.

Phyllis Forbes stated that she had informed the Board that the County would be getting a new Department of Social Services director and the lady had accepted the position but due to a change in circumstances with her family she called back and declined the position. The DSS Board has chosen Mr. Patrick Thomas Hughes and he will begin as director of DSS on March 26, 2008.

Ms. Forbes informed the Board that the new daycare in Crossnore, Children's Castle, will be opening on the 17<sup>th</sup> of March, 2008. Ms. Forbes invited the Board to an Open House at the new daycare on March 8, 2008.

**Board Appointments**

Robert Wiseman, County Manager, advised the Board that when Cindy Huffman Turbyfill was appointed to the vacancy created by Nancy Cook the Board did not swear Ms. Turbyfill in. Chairman Poteat gave the Oath of Office to Ms. Turbyfill.

**County Manager Updates**

The County Manager stated he had an update on the new Avery County Humane Society Project. The Manager advised that he met last week with several representatives from the Humane Society, David Patrick Moses Architect, and Municipal Engineering at the proposed animal shelter site to discuss possibly having the survey done by the middle of March and possibly have a lease agreement drafted for the Board to look at by the next meeting. A color rendering of the proposed Avery County Humane Society building and the preliminary blueprints were presented to the Board. A brief overview of how the Avery County Humane Society Project came about was presented. The Manager stated in a previous meeting a motion was made by Scott Heath that the County would participate in a lease of property to the Avery County Humane Society up to 5 acres. The Manager advised the lease would probably only be 3 ½ to 4 acres.

The Board took a brief recess at this time.

Following a 2 minute recess, the Board reconvened in Regular Session.

**Motion by Phyllis Forbes and second by Susan Pittman for the Board to convene in a Public Hearing to closeout CDBG Grant #05-I-1387. Motion unanimously approved at 3:20 p.m.**

**Public Hearing – Closeout CDBG Grant #05-I-1387**

Board members Kenny Poteat, Susan Pittman, Dan South, Phyllis Forbes and Scott Heath convened in a Public Hearing to discuss the closeout of CDBG Grant #05-I-1387.

Jim Byrne, Boone Housing Authority, advised that the Division of Community Assistance requires a Closeout Public Hearing for Grant #05-I-1387 which provided \$600,000 in assistance towards flood recovery in Avery County. Two houses were acquired and two houses replaced on a 1:1 basis. \$94,300 was applied to the Avery Senior Citizens Center for improvements. The Grant is completed and Mr. Byrne stated to his knowledge there had been no problems with the Grant.

Chairman Poteat questioned the total amount of money given by this Grant. Mr. Bryne advised the total amount of money of the Grant was \$600,000. Chairman Poteat also asked the total amount of homes that were rebuilt or reconstructed and Mr. Byrne replied that 6 homes under this Grant was rebuilt or reconstructed. The Grant was received June 28, 2005 following the flood disasters of 2004.

Chairman Poteat declared the Public Hearing of CDBG Grant #05-I-1387 closed at 3:24 p.m.

**Motion by Phyllis Forbes and second by Dan South to reconvene in Regular Session at 3:24 p.m. Motion unanimously approved.**

**Motion by Susan Pittman and second by Scott Heath to recognize the Closeout of the CDBG Grant #05-I-1387. Motion unanimously approved.**

**Tax Collector Report – Mary Daniels**

Mary Daniels, Tax Collector, presented the total tax collections for the month of February which were \$327,312.43. Collection rate through the month of February was 93.10%. The Tax Collector stated second notices would be going out this week in the mail. These notices are a 10 year work up.

**Motion by Scott Heath and second by Susan Pittman to approve this report as presented. Motion unanimously approved.**

**Tax Assessor Report – Phillip Barrier**

**Real & Personal Releases**

Real & Personal Releases for the month of February 2008 is County Tax Release of \$304.39 and Fire Tax \$56.47. This is the Loved One's Day Care Center.

**Motion by Phyllis Forbes and second by Dan South to approve the Real and Personal Releases as presented. Motion unanimously approved.**

**Real & Personal Refunds**

Real & Personal Refunds for the month of February 2008 is County Tax Refund \$154.21 and Fire Tax \$16.65.

**Motion by Susan Pittman and second by Scott Heath to approve the Real and Personal Refunds as presented. Motion unanimously approved.**

**Motor Vehicle Releases**

Motor Vehicles Releases for the month of February 2008 is County Tax \$351.17 and Fire Tax \$38.26. Mr. Barrier stated that the Town of Banner Elk would have to release \$59.70 from Watauga.

**Motion by Dan South and second by Scott Heath to approve the Motor Vehicle Releases as presented. Motion unanimously approved.**

Mr. Barrier advised the Board that beginning this week he will be taking applications for the Board of Equalization and Review. Mr. Barrier stated he would bring the applications for the Board of E&R to the April meeting. There will be 5 members on the Board of E&R and one alternate. Mr. Barrier advised he had applications for the Board of E&R and the Clerk would have applications also. Mr. Barrier stated the Tax Assessors Office was working on neighborhood reviews. New construction notices were sent out on the new construction recently, advised Mr. Barrier.

**Secret Springs Subdivision Approval – Tommy Burleson and Garry Benfield**

Garry Benfield, Avery County Inspections, advised that Secret Springs is a new subdivision located on Roaring Creek with the main entrance being off Martin Branch Road. The total area of Secret Springs in Phase I to be approved is 24.65 acres with a total number of lots in Phase I to be 10. There is a total of 104 acres in this subdivision. Pepper Rogers with Secret Springs Subdivision and Eddie Rodriguez with The Highlands at Roaring Creek introduced themselves to the Board. Mr. Benfield stated that Secret Springs was in compliance with all ordinances at this time and in compliance with the Sedimentation & Erosion Plan. A survey map of the subdivision was given to each Commissioner. Scott Heath questioned about a turnaround for emergency vehicles in this subdivision. Mr. Pepper Rogers stated that a member of the Fire Association had been there to look at their turnaround and also a 30,000 to 35,000 gallon pond will be built at Lot 11 for fire suppression. Scott Heath reiterated that with the High Impact Ordinance that the Board went through, the Board talked a lot about enforcement of the Ordinances and not to let things "fall through the cracks". Garry Benfield stated that now the Inspections Department does get a letter of credit before the project starts to guarantee everything will meet County Ordinances.

Discussion regarding other subdivisions.

Dan South stated he would like to see the original documents where the subdivisions have been advised to fix certain issues related to the Ordinances so the Board would be able to ask questions to find out if these issues were taken care of, i.e. did the grade get cut down or is the cul-de-sac large enough to accommodate emergency vehicles. Chairman Poteat asked the County Manager to get with the Inspections Department regarding possible approval pass summaries to be forwarded to the Commissioners before the subdivision comes before the Board for approval.

Susan Pittman stated that other counties were looking at Avery County as a role model for their Subdivision Ordinances.

Pepper Rogers, Secret Springs Subdivision, stated he had worked in other counties and in other states with development and Avery County was very detailed and very fair.

**Motion by Scott Heath and second by Dan South to approve the Major Subdivision Phase I for Secret Springs Subdivision, Indian Saddle Development, LLC in the Roaring Creek area. Motion unanimously approved.**

**The Highlands at Roaring Creek Subdivision – Garry Benfield & Tommy Burleson**

Garry Benfield advised that The Highlands at Roaring Creek Subdivision is a new subdivision located on Roaring Creek with Phase I acreage being 34 acres with a total number of lots to be approved in Phase I of 14. The minimum lot size is 1.52 acres and maximum lot size is 2.92 acres. Total acreage of the entire subdivision is 66.51 acres. Garry Benfield stated that the Subdivision was in compliance with all Ordinances at this time and the Sedimentation and Erosion Plan. Chairman Poteat stated it was pleasing to see the minimum and maximum size of the lots being very spacious.

**Motion by Susan Pittman and second by Phyllis Forbes to approve the Major Subdivision Phase I for the Highlands at Roaring Creek. Motion unanimously approved.**

**County Manager Updates**

**Green Valley EMS Substation**

The County Manager advised the Board the entrance and driveway for the Green Valley EMS Substation at Riverside School is completed and the sign is in place. There have been several positive public comments about the Green Valley EMS Substation. The Manager stated that Sondra Austin, County Manager Administrative Assistant, should be commended for submitting the paperwork for a grant to pave the driveway at the Green Valley EMS Substation. The grant was awarded in the amount of \$10,800 to pave the driveway at the Green Valley EMS Substation. The next step is to get the building permit and hopefully begin by the first of April.

**New Jail Project**

The County Manager advised the renovation and expansion of the existing jail has been a hot topic and has been slower than it should have been getting off the ground. The Manager stated he had been in contact with Beeson, Lusk and Street, the architects for the jail, the Chief Jailer and the Sheriff and the County is back on track with the jail project. The Manager advised the Board the preliminary design is being scrutinized and a decision will be made in the next couple of weeks on the consultant to use for the jail project.

**Cranberry Water Project**

The Manager stated that the Cranberry Water Project is at a standstill. The Manager refreshed the Board's memory on the Cranberry Water Project stating that approximately 3 years ago Phillip Frye, State Representative, helped obtain a grant for the Cranberry Community in the amount of \$900,000. The Town of Elk Park did not qualify for the grant so Avery County stepped in and agreed to be the lead agent with regard to the Cranberry Water Project. The Manager stated there had been many problems, i.e., right-of-ways. The Manager advised that the Cranberry Water Project was in jeopardy of losing the grant money if there is not significant progress made in a short period of time. The Manager stated that the County has done their part as lead agent and it was up to McGill & Associates and the Town of Elk Park. Discussion regarding the Cranberry Water Project. The Chairman questioned if there was anything that the Board could do at this time to help with the Cranberry Water Project. The Chairman advised the Clerk to find out when the Town Council of Elk Park would meet and try to get the Chairman on the agenda.

**DRAFT OF ALARM ORDINANCE**

The Manager presented to the Board a proposed draft of an alarm ordinance. The Manager stated there was a lot of validity to an alarm ordinance, that being to decrease the number of false alarms that are answered by the fire departments. There are a lot of issues with the alarm ordinance that need to be scrutinized. The Manager stated the enforcement of this alarm ordinance would be a "nightmare". The Chairman questioned if there was already an alarm ordinance. The County Attorney stated she did not think there was an alarm ordinance. The Chairman asked the Clerk to research if there was an alarm ordinance and send it to the County Attorney. Daryl Smith, Fire Commission Chairman, stated there was an alarm ordinance in the past. Mr. Smith advised there were 168 false alarms, out of that 145 were at 6 locations, i.e., Lees McRae College, Crossnore School, Inc., Sugar Mountain Assisted Living, Life Care Centers, Sugar Mountain Resorts and Cannon Memorial Hospital. These calls ranged anywhere from 15 to 28 false alarm calls each. The majority of these false alarm calls were at places where there are 24 hour personnel. Mr. Smith stated that, in his opinion, if the fire departments would go talk to these 6 locations with the most false alarm calls and ask them to notify Communications that there is no fire when the alarms go off this would eliminate a lot of the false alarm calls. The Chairman advised at this time there are too many concerns regarding the alarm ordinance to seek approval. Dan South questioned what organization was bringing the Alarm Ordinance to the Board. Daryl Smith stated that the Fire Association brought the proposed Alarm Ordinance to the Fire Commission and they in turn brought it to the County Manager. The County Manager advised there are several other departments that have not commented yet on the proposed Alarm Ordinance, i.e. Sheriff's Department. The County Attorney stated the Alarm Ordinance Fees would go to the Fire Association and could not be allocated by the County. Scott Heath suggested that if there is already an Alarm Ordinance that the original Alarm Ordinance should be revised and sent to the

Planning Board for revision. The Chairman stated there were some very legitimate concerns and asked the Manager to make sure the County Attorney got a copy of the previous Alarm Ordinance and also talk with the Planning Board regarding the Alarm Ordinance.

#### **EVERY COUNTY LITTLE LEAGUE**

The County Manager asked the Board to look at the second page of the Lease for the Avery County Little League. The Manager stated that the County owns the property known as the Avery County Little League fields and the Avery County Little League has a lease in perpetuity. The existing Lease says that the Avery County Little League will be responsible for all maintenance, including grounds maintenance, mowing and so forth. The County Manager read the change to the contract on page 2, section #4 that states; "During the terms of this Lease the Lessee shall pay the cost for all maintenance and upkeep of the demised premises which is reasonably necessary to keep the demised premises in good condition and in substantial repair, with the exception of the annual lawn care contract which shall be part of the County/Lessor mowing and landscape contract". The County Manager advised that prior to 2004 the County mowed the Avery County Little League Field. The Manager stated that if there is going to be a change in the lease agreement to make it effective July 1, 2008. Discussion regarding who has mowed the Little League field in the past. Dan South stated that last year to get the Little League fields mowed it cost approximately \$9,000. Mr. South advised that the whole issue with the \$9,000 is that it devastated the budget of the Avery County Little League. The Manager advised he was relatively sure that the County's landscape maintenance contract did not include the fields and was excluded specifically in the lease between the County and Avery County Little League. Dan South stated that the Little League fields need to be mowed and that the contract needed to include the mowing of the Little League fields. Chairman Poteat stated if the Board was to approve this today the wording is "with the exception of the annual lawn care contract which shall be part of the County/Lessor mowing and landscape contract. This would relieve the Avery County Little League of such expense and would be enacted July 1, 2008. The County Attorney stated she would like to revise the Little League Contract to include beginning July 1, 2008.

**Motion by Susan Pittman and second by Dan South concerning Avery County Little League's request for the lease agreement to be revised in order to exclude the lawn care contract and request that the lawn care be included in the Lessor's Mowing and Landscape Contract and to be part of said contract after approval and additions deemed needed by the County Attorney. Motion unanimously approved.**

Scott Heath asked who would be mowing the Little League fields until July 1, 2008. The Manager stated the County could accommodate the needs of mowing until July 1, 2008.

Discussion regarding the middle schools using the Avery County Little League fields and that these fields are multipurpose and being used extensively. Dan South stated that the use of the Avery County Little League fields by the middle schools should be brought up at the joint meeting of the Board of Commissioners and Avery County Board of Education.

#### **Town of Newland Water Storage Tank**

The County Manager stated that last week Keith Hoilman, Public Works Director in Newland and Brenda Pittman, Newland Town Manager met with the Manager about a grant that the Town of Newland had received to possibly dig a well in the town of Newland. The grant is for \$230,000. The Town of Newland is requesting to join with the County to try to obtain additional funds, advised Mr. Hoilman. Mr. Hoilman stated that back before Bob Tatum retired from the Avery County School System, Mr. Tatum had come to the Town of Newland inquiring if there was any way of getting water to the Avery Middle School and Avery High School. Mr. Hoilman advised that the Avery High School has a well that was grandfathered in several years ago and basically if there was one report of contamination the State could close the high school down. Mr. Hoilman stated the well at the Avery High School does not have 100 foot radius which is required by the State. Mr. Hoilman advised that the Town Manager researched having a 100,000 gallon water tank that would provide water to the Avery Middle School and Avery High School and also provide fire protection. Mr. Hoilman stated Avery Middle School and Avery High School has no sprinkler systems or fire hydrants. Mr. Hoilman proposed a joint effort between the County, Avery County Board of Education, and Town of Newland because this could possibly be the only chance to get \$290,000 toward that project which the Town of Newland would probably never have the funds to do again and would provide the fire protection and water for Avery High School and Avery Middle School.

Chairman Poteat questioned Mr. Hoilman if the Avery County Board of Education owned the land that the storage tank would be on. Mr. Hoilman stated that it would require ½ to ¾ acre from the Board of Education. Discussion about how the storage tank may benefit the Town of Newland and the Avery High School and Avery Middle School. The Town Manager stated that the grant money must be expended within the next 6-8 months or the Town of Newland would lose the grant. The Town Manager advised if there could be no joint venture that the Town of Newland would go ahead and use the grant money instead of losing the grant money. Susan Pittman stated that when the Board met with the Board of Education at the meeting on March 6, 2008 that the water storage tank would be discussed. Phyllis Forbes questioned if there were any limitations with this grant such as not being able to use the money if the land for the water storage tank would be out of the city limits. Mr. Hoilman stated he had checked into this and there were no restrictions with this grant money. Scott Heath asked if the Town of Newland was looking for partnering with grant opportunities or actual money out of pocket. The County Manager stated that the chance to get 100% funding with this type of project is "slim to none" but the chance of getting 50/50 grant monies is much better.

Chairman Poteat stated the grant is for \$290,000 with the project estimated to be \$520,000 so there would be a shortage of \$230,000. The Chairman emphasized this would have to be a joint agreement with the Town of Newland, Avery County Board of Education and Avery County and each entity would equally share in any shortage of funds beyond the grant monies.

Further discussion regarding the water at Avery Middle School and Avery High School. Dan South stated this was a good opportunity for Avery High School and Avery Middle School.

#### **Resolution Celebrating 100 Years of County Unity**

The County Manager stated he received a request from the NCACC (North Carolina Association of County Commissioners) for a joint resolution recognizing the NCACC 100 years of existence.

**Motion by Susan Pittman and second by Phyllis Forbes that the Board adopts a resolution celebrating 100 years of County Unity in recognition of NCACC's Centennial. Motion unanimously approved.**

Scott Heath stated that in two years the County would be 100 years old and there needs to be some celebration of Avery County's 100<sup>th</sup> year in existence.

#### **Mayland Community College Reallocation of \$30,000**

The County Manager stated that in order for Mayland Community College Finance Department to transfer funds from capital into operating it takes a motion from each Board to do that. The Manager advised that Mayland Community College, without the County's permission, transferred from capital over to operating funds \$18,900. The Manager reiterated that there would be no exchange of money just a reallocation of the \$30,000.

**Motion by Susan Pittman and second by Dan South to allow Mayland Community College the approval to reallocate any or all of the \$30,000 Capital Allocation into Operating Funds as Mayland Community College deems necessary through June 30, 2008. Motion unanimously approved.**

Scott Heath questioned if there was a reason for the reallocation of the \$30,000. The County Manager stated Mayland Community College has had a difficult time making their expenses this year. The Manager stated the Board has been requested to meet with the other County Boards (Mitchell and Yancey), and with Mayland Community College in the near future.

#### **Recess**

The Board took a brief recess at this time.

#### **Regular Monthly Meetings**

Discussion regarding having one Regular Monthly Meeting a month. Chairman Poteat stated that the current policy of the Board is that November through April there is one Regular Meeting a month and May through October there is two Regular Meetings a month. Susan Pittman stated the Board could revise the policy for one Regular Meeting a month year around but call a Special Meeting if a situation arises to need another Meeting. Discussion regarding changing the time of the Regular Meetings. By consensus of the Board, it was felt that 3:30 p.m. would be more convenient for the public to attend.

**Motion by Phyllis Forbes and second by Susan Pittman to revise the policy to have one Regular Meeting on the first Monday of each month at 3:30 p.m.**

**Chairman Poteat called for a vote on the above motion. No Board member voted in favor of the motion. Motion unanimously failed.**

Further discussion regarding the meetings of the Board.

**Motion by Phyllis Forbes and second by Dan South that the Board consider amending the policy such that the Board continue to have two Regular Monthly Meetings May through October but the Second Regular Monthly Meeting would be at the discretion of the Chairman and all Regular Meetings begin at 3:30 p.m. Motion unanimously approved.**

#### **State of County Address**

The County Manager stated research was being done regarding the State of County Address and how other counties in North Carolina were handling the State of County Address. The County Manager advised that the State of County Address would, in his opinion, help alleviate rumors and inform the public what the Board of Commissioners and other county departments were accomplishing. Discussion about using sponsors to pay for the State of County Address.

Consensus by the Board for the County Manager to pursue the State of County Address.

#### **Disposition of Loved Ones Day Care Mobile Unit**

The County Manager suggested that the Board needed to make a decision on where to relocate the mobile unit between now and the 1<sup>st</sup> of April. Discussion about where to locate the mobile unit or possibly sell the mobile unit.

Consensus of the Board to allow the County Manager to proceed with relocating the mobile unit, formerly Loved Ones Day Care Center, to Heritage Park for office space and storage.

**Finance Officer Report – Tim Greene**

**Budget Amendment # A08-22**

Tim Greene stated that the Department of Social Services has received an additional allocation for Crisis Intervention line item and this is 100% reimbursement from the State. Debit of \$9,872.00 to Crisis Intervention and Credit of \$9,872.00 to County Welfare.

**Motion by Phyllis Forbes and second by Dan South to approve Budget Amendment #A08-22 in the amount of \$9,872.00 which is 100% reimbursement for Crisis Intervention. Motion unanimously approved.**

**Budget Amendment # A08-23**

Tim Greene advised that at the October 2, 2007 meeting, the Tax Assessor came before the Board and stated the Tax Assessor's Office had made an error in listing an airplane. The Assessor's Office had listed the airplane at \$49,500,000 but the airplane should have been listed at \$4,950,000. The Finance Officer advised that there would be a Tax Release Debit of \$193,050.00 and a Tax Collection Credit of \$193,050.00. The Finance Officer stated at the October 2007 the Tax Release had already been approved and today's request was a Budget Amendment.

**Motion by Dan South and second by Susan Pittman to approve a Budget Amendment # A08-23 recognizing a Tax Release in the amount of \$193,050 Debit and a Credit to Tax Collection of \$193,050.00. Motion unanimously approved.**

**County Attorney Report – Michaele Poore**

The County Attorney advised there are no new major developments in any pending litigation. The County Attorney stated she received one new tax foreclosure from the Tax Collector's Office.

Scott Heath asked about the second notices that went out recently from the Tax Collector's Office. The County Attorney stated the County can only collect back taxes for 10 years. The County Attorney stated that the Tax Collector always tries to send a second set of notices before she sends the delinquent taxes on for collection to the County Attorney's office. Discussion regarding tax collections.

**Approval of Minutes**

**Motion by Scott Heath and second by Susan Pittman to approve the Regular Session Meeting from February 4, 2008; Closed Session Meeting February 4, 2008; and Workshop Session February 20, 2008. Motion unanimously approved.**

**Agenda Consent Items**

Approved by Consensus of the Board. Dan South stated he appreciated the recognition of the Lady Viking's Basketball Team and suggested the Board has a "thought process" in place to recognize other accomplishments of teams, students, etc.

**Upcoming Meetings**

Upcoming Meetings were discussed. There will be a joint meeting with the Board of Education March 6, 2008 in the Commissioners Board Room. The County Manager added there would be a retirement ceremony in the near future for Marie Gwyn, Director of the Department of Social Services.

**Adjourn**

**Motion by Phyllis Forbes and second by Susan Pittman to adjourn this meeting at 5:52 p.m. Motion unanimously approved.**

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

ATTEST: \_\_\_\_\_  
Cindy Turbyfill, Clerk to the Board