

**STATE OF NORTH CAROLINA
COUNTY OF AVERY**

The Avery County Board of Commissioners met in Regular Session on Monday, December 1, 2014 at 3:30 p.m. in the Commissioners Board Room, Avery County Administrative Complex, 175 Linville Street, Newland, NC.

Members Present: Reo Griffith; Martha Hicks; Faith Lacey, Maxine Laws, Blake Vance

Members Absent: None

Call To Order

Tim Greene, Assistant County Manager, called the meeting to order at 3:30 p.m.
Tim Greene led prayer.

Organizational Meeting

Election of Chairman

Tim Greene opened the floor for nominations for election of Chairman of the Avery County Board of Commissioners. **Blake Vance nominated Reo Griffith. Faye Lacey seconded the nomination. There were no further nominations. Reo Griffith elected Chairman by acclamation.**

Reo Griffith assumed the Chairman's position.

Interim County Manager

Chairman Griffith asked for nominations for interim County Manager. **Faye Lacey nominated Tim Greene. Maxine Laws seconded the nomination. There were no further nominations. Tim Greene appointed Interim County Manager by acclamation.**

Finance Officer

Chairman Griffith called for nominations for Finance Officer. **Martha Hicks nominated Tim Greene. Blake Vance seconded the nomination. Chairman Griffith moved that nomination ceases. Tim Greene appointed Finance Officer by acclamation.**

Clerk to the Board

Chairman Griffith entertained nominations for Clerk to the Board. **Blake Vance nominated Cindy Turbyfill as Clerk to the Board. Faye Lacey seconded the nomination. There were no further nominations. Cindy Turbyfill appointed Clerk to the Board by acclamation.**

County Attorney

Chairman Griffith called for nominations for County Attorney. **Faye Lacey nominated Gerald McKinney as the County Attorney. Maxine Laws seconded the nomination. There were no further nominations. Gerald McKinney appointed County Attorney by acclamation.**

Vice Chairman

Chairman Griffith called for nominations for Vice Chairman of the Avery County Board of Commissioners. **Blake Vance nominated Maxine Laws as Vice Chair. Faye Lacey seconded the nomination. There were no further nominations. Maxine Laws elected Vice Chair by acclamation.**

Formal Session

Chairman Griffith called the Formal Session of the Regular Scheduled Meeting of the Avery County Board of Commissioners to order.

Public Comments

John Millan congratulated the new commissioners and county staff. "I had approached this with the last board and there was some disconnect with the state actually. This has been personal to me. The sign at the bridge in Heaton that was named in Glenn Hicks' honor if you pay close attention to it, it says Glenn Hick's bridge but if you look at bridges for other fallen peace officers throughout the state they will say Lieutenant or whatever title they have. I asked the Department of Transportation why that was not done with Lieutenant Hicks. I have spoken with Mr. Hick's close family over time and they have been receptive to get that injustice corrected. I would ask the commissioners to explore a nonbinding resolution asking help from the DOT, Governor or whoever to get that fixed. I know there has been some talk about DOT waiting until the sign needs replaced rather than put a strip up which could cost \$500 to \$1000. That would be my request to the Board of Commissioners to entertain some process to get the sign corrected."

Greg Gardner, Avery County Citizen, handed out some information to the Commissioners about some ideas that he wanted to put before the new commissioners regarding economic development. I wanted to challenge every one of you to execute your office through powers, the bible and you have my prayers, my family's prayers, my churches prayers. Mr. Gardner gave each commissioner a book.

Chairman Griffith thanked everyone for being here. It is good to have an audience and good that people are interested in what is going on in the county and being involved in the government. I am humbled that this board has chosen to have me lead for the next year. I hope that I lead with dignity and pride.

Faye Lacey thanked each one for the opportunity to serve and said she would do her best to make a good commissioner.

Martha Hicks stated that this was like starting new. I have enjoyed my job as a commissioner. I am now serving on eight boards and I have been asked to go on another board. It is a pleasure to serve the people of Avery County. I was born in Avery County and lived and worked here all of my life.

Chairman Griffith recognized some past officials that were present at the meeting; Glenn Johnson, Phyllis Forbes, Sam Laws, Clay Houston, Dan Vance, John Greene, Chairman of the School Board, Michaelle Poore, former County Attorney.

Maxine Laws thanked everyone for coming out. I hope you will continue to come to each and every meeting.

Blake Vance stated "Thank you for allowing me the honor and privilege to sit in this chair. I am very humbled that you entrusted me. I would like to give you an idea of what you can expect of me as a commissioner. I don't think we need to be competing with the surrounding counties. We need to do what is best for Avery County. Avery County is not Mitchell, Watauga or Ashe County. We are our own unique county. I want to do what is best for Avery County as a whole. Another thing you will see from me as we go forward I am going to be the one asking hard questions when someone comes in wanting money. Again, thank you for being here today."

Chairman Griffith reminded the audience that if anyone would like to speak to an agenda item you must sign up on the sheet with the clerk.

Tax Administrator Report – Phillip Barrier

Phillip Barrier, Tax Administrator, reported that the Tax Collection Rate for 2003-2013 is 99.17%. The total amount of taxes past due for 2003-2013 is \$1,593,408.28. Mr. Barrier stated that when he became Tax Administrator that he set up a payment plan for citizens that could not pay their taxes all at one time. The Tax office does not audit businesses and there is no garnishment of wages or attachments to Income Tax Refunds to collect taxes. The next planned Revaluation is 2018. The January listing period each year is January 1-31. The elderly exemption for 2015 is \$29,000.

Chairman Griffith said that he had received a phone call from a citizen that said they paid their taxes with a debit card and was charged \$15 or so to use the card. Mr. Barrier stated that anytime anyone uses a credit or debit card the card company gets money for that and that it is passed on to the person paying and that there was a message on the tax bill and the website to alert citizens about this charge.

Tax Collections Report

The Total Tax Collection for the month of November is \$3,053,466.02.

Motion by Martha Hicks and second by Maxine Laws to approve the Tax Collections Report for the month of November as presented. Motion unanimously approved.

Regular Releases

The Total Regular Releases for the month of November is \$1,848.18.

Motion by Blake Vance and second by Maxine Laws to approve the Regular Releases for the month of November as presented. Motion unanimously approved.

Motor Vehicle Releases

The Motor Vehicle Releases for the month of November is \$17.22.

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

Tax Refund

The Total Tax Refund for the month of November is \$1,597.04.

Motion by Maxine Laws and second by Martha Hicks to approve the Tax Refund for the month of November as presented. Motion unanimously approved.

Mr. Barrier stated that there was a gentleman who owned a lot on Sugar Mountain that had been at the last meeting and spoke during public comments. He was asking the Board to lower his tax value for 2009. He has been in court over access to the lot.

Motion by Blake Vance and second by Martha Hicks to notify Mr. Paul Davis to pay the 2009 taxes owed. Motion unanimously approved.

Economic Development Department

Chairman Griffith advised that a few hours ago we received a letter addressed to Mr. Kenny Poteat, Avery County Board of Commissioners dated November 30, 2014. This letter was given to the Clerk who passed it along to the Board from Bret Gardella, Economic Development Director. Chairman Griffith read aloud the letter:

Dear Mr. Poteat:

I wish to thank you, Commissioners Johnson, Forbes, Hicks, former Commissioner Heath and former County Manager Robert Wiseman for allowing me the opportunity to be Avery County's Economic Development Director. It has been my pleasure to serve the residents of Avery County for three and a half years and I'm proud of the work we accomplished.

However, as the old saying goes, "All good things must come to an end." Therefore please accept this letter as my resignation from the position of Economic Development Director for Avery County effective December 26, 2014.

I will gladly help the County transition this position during this time.

Respectfully submitted November 30, 2014.

*Bret Gardella
Economic Development Director
Avery County, North Carolina*

CC: Peggy Wallace Human Resource Director, Avery County

Motion by Maxine Laws and second by Faye Lacey not to accept the resignation but eliminate the position of Economic Development Director effective immediately and those duties would fall back to the county manager and county commissioners.

Blake Vance said "I agree 100% to immediately terminate this position. If you look through the correspondence between Ms. Poore and Mr. Gardella, there has been a consistent habitual dismissal of and resistance to legal advice. The county taxpayers make a significant investment to hire a county attorney and it is for that purpose to make sure we are in compliance with the law at all times and in the correspondence he is consistently dismissing her advice and found himself out of compliance with the law on several occasions so with that being said I agree to immediately eliminate this position."

Motion unanimously approved.

Discussion of Board Policy

Chairman Griffith advised that the Avery County Board of Commissioners has a board policy which needs some updates but that the Board needed to go by this policy. We will need to seek legal counsel. Chairman Griffith asked Commissioner Vance to proceed with his concerns with the board policy.

Commissioner Vance stated that he would suggest that the meeting time for the regularly scheduled meetings be amended to 5:30 or 6:00 due to public request. There will be some additional costs and comp time but I think one of the most important things for a government to do is to allow active participation by the citizens. In Section 2.5 something I think the board should consider I know there has been a recommendation in the past that we look into technology for the board packets. There is a lot of paper here and a lot of work. I think it would be a good idea and long term cost savings to look to Ipads or some type of technology. I think we need to have a tentative agenda available to the media as soon as possible and have it published in the paper a week before the meeting. We have had some questions about the legality in 2.7 and I would like the attorney to address that. It is my understanding that we are allowed to have policy that limits the speaking time of folks but I think we should clarify that and let the attorney look at that. It is my understanding we are in compliance with the law.

Commissioner Laws agreed with Mr. Vance on moving the time and getting the agendas out to the newspaper.

Commissioner Hicks agreed with Mr. Vance.

Commissioner Lacey said she did not have a problem with any of it.

Chairman Griffith stated that there has been numerous people talk to board members about a change of time for the meetings. We are going to discuss this policy more in depth at probably several meetings. As far as the agenda, we have been getting our packet on Friday afternoon. The cutoff time for the agenda is 12 noon on Thursday and that puts the packets out on Friday afternoon and the county buildings remain closed until Monday morning. Making a cutoff of Wednesday at noon and putting the packet out on Thursday afternoon that would give us Friday and Monday to get a hold of county staff for any questions. On Section 2.7, as I stated when we opened this meeting, ugly talk we are not going to tolerate. We have NC general statute that governs it in a public meeting. This 3 minute rule is probably going to stay in place at the Chairman's discretion. I think people will be respectful. If we see they are going to ramble on, we are going to cut them off. We will let the people speak as long as they are being respectful.

Sam Laws, Avery County citizen, stated "I think you are making a bad mistake when you move the meeting to 6:00 p.m. especially in the wintertime when it is bad weather. You just ruled me and Clay out because I can't see during the night and Mr. Houston can't see during the day. If you do it you will find out you won't have anybody here. I hope you will reconsider that. Maybe you should have a public hearing before you make a big move like that. When I was county commissioner we met from 9:00 a.m. to 5:00 p.m. I hope you will table this and think about it before you change the time."

John Millan stated "Two points that have been a concern in the past. There has been a concern in the past that people's right to free speech under the first amendment has not been respected. The other is attendance at meetings. I think it would probably be in the county's best interest to consider an attendance policy for the Board."

Contessa Gunter, Avery Journal reporter commented she agreed with having something like Ipads.

Consensus of the Board to table the meeting time issue until further discussion.

Chairman Griffith said the second issue that was brought up was the cutoff time for the material and getting the packets out.

Motion by Maxine Laws and second by Faye Lacey to make the material cutoff on Wednesday at noon in Section 2.4 of the Board Policy and for the delivery of the agenda packets on Thursday afternoon in Section 2.5 of the Board Policy. Motion unanimously approved.

Chairman Griffith said the next item was the speaking time under 2.7. Is it a consensus of the Board that we leave 2.7 as is at the Chairman's discretion and if the public is being courteous that it be the Chairman's decision on the speaking time and number of speakers that we have?

Motion by Martha Hicks and second by Blake Vance to leave Section 2.7 in the Board Policy as is at the Chairman's discretion and if the public is being courteous that it be the Chairman's decision on the speaking time and number of speakers. Motion unanimously approved.

Proposed Resolution and Proposed Deed for Puckett Property

Tim Greene stated that we received a letter from Western Asbestos, Inc. that the asbestos has been abated from the Puckett Property. We have not received an invoice on that.

Chairman Griffith read aloud the proposed Resolution Regarding the Puckett Property as follows:

Whereas, the County of Avery owns certain real property, the same being a .66 acre tract Located off Orchard Lane, Banner Elk, North Carolina, and being a portion of the property in Book 371, Page 3005 of the Avery County Registry, and known as the "Puckett House"; and

Whereas, the County received an offer to purchase the property and on 20 October 2014 approved Said purchase contract subject to the provision of NCGS 160A-269; and

Whereas, a Notice of the Sale was duly advertised in a newspaper having general circulation In Avery; and

Whereas, no upset bids have been received; and

Whereas, the proposed purchasers, Kevin Williams and wife Cynthia Williams, have paid the Required five percent (5%) deposit on their offer;

Now, Therefore, the County of Avery hereby resolves that:

- 1. The Board authorizes the sale of the property described above to Kevin Williams and wife, Cynthia Williams.*

2. *This closing shall be for cash at the time of closing.*
3. *The Chairman of the Board of County Commissioners is hereby authorized to execute the deed, closing statement and any other documents necessary to convey title to the real property to Kevin Williams and wife, Cynthia Williams.*

Adopted this the day of December, 2014.

Gerald McKinney, County Attorney, stated that it would be appropriate to add a “whereas” to the resolution that states the county has provided for the abatement of asbestos in the transite siding and floor covering as previously agreed to.

Recess

Recess for 10 minutes to type up a new resolution and add the above statement.
Chairman Griffith called the meeting back into session after a brief recess.

Motion by Martha Hicks and second by Blake Vance to adopt the amended Resolution regarding the Puckett Property. Motion unanimously approved.

Mr. McKinney stated that the deed that is in the packet for the Puckett Property is fine to use.

County Manager Updates

Consensus of the Board to add under the County Manager’s Report discussion regarding pay for the interim county manager.

Chairman Griffith said it was his opinion that Tim Greene should be compensated for the position of interim county manager and that he should have the salary that Mr. Wiseman had before he retired.

Each commissioner agreed that Mr. Greene should be compensated for the position of interim county manager.

Motion by Blake Vance and second by Maxine Laws that Tim Greene, Interim County Manager and Finance Officer, receive the pay and benefits of the former county manager, Robert Wiseman, until such time as a full time county manager is hired. Motion unanimously approved.

Finance Officer Report – Tim Greene

Tim Greene pointed out to the Board that Section 13F of the Avery County Board Policy needed clarification to include the assistant County Manager or make that the Finance Officer as having authority to make line item transfers. Within the department, the finance officer needs the authority to move between line items. This will be addressed when the board policy is brought back up for discussion.

Mr. Greene stated that G.S. 159-25b states that all checks or drafts on an official depository shall be signed by the finance officer or a properly designated deputy finance officer and countersigned by another official of the local government. He requested that the Board designate an official for the second signature.

Motion by Blake Vance and second by Maxine Laws to designate the Chairman of the Board as the second signer. Motion unanimously approved.

Budget Amendment

The General Fund will need to reimburse the E911 fund for the payment of travel reimbursements that were erroneously paid from the E911 fund.

Motion by Maxine Laws and second by Blake Vance to adopt the budget amendment of \$150.00 with a debit to Transfer to E911 Fund (107000.6250) and a credit of \$150.00 to Available for Appropriation (107000.6000) and a debit of \$150.00 to Fund Balance Appropriation (223990.0000) and a credit of \$150.00 to Transfer-E911 System (223101.0000). Motion unanimously approved.

County Attorney Report

Each Commissioner welcomed Gerald McKinney as new County Attorney. Chairman Griffith instructed Mr. McKinney to review all documents, and contracts from the courthouse renovation for possible breach of the contracts and govern accordingly.

Closed Session

Motion by Blake Vance and second by Maxine Laws to go out of Regular Session and into a time of Closed Session at 5:25 p.m. regarding N.C. GS 143-318.11 subsection (a)(6) concerning Personnel. Invitees would be the Board, Interim Manager, Clerk and County Attorney. Motion unanimously approved.

Chairman Griffith declared the meeting to be back in Regular session after a time of Closed Session. During Closed Session, no vote was taken.

Approval of Minutes

Motion by Martha Hicks and second by Blake Vance to approve the Minutes for October 20, 2014. Motion unanimously approved.

Agenda Consent Items

Motion by Blake Vance and second by Maxine Laws to approve the Agenda Consent Items. Motion unanimously approved.

Upcoming Meetings

December 8, 2014 a Special Meeting will be held at 8:00 a.m. regarding discussion of board policy and closed session regarding personnel.

Adjourn

Motion by Martha Hicks and second by Maxine Laws to adjourn this meeting at 5:58 p.m. Motion unanimously approved.

**Robert "Reo" Griffith, Chairman
Avery County Board of Commissioners**

ATTEST: _____
Cindy Turbyfill, Clerk