

**STATE OF NORTH CAROLINA
COUNTY OF AVERY**

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

Members Present: Kenny Poteat, Chairman; Glenn Johnson, Vice Chair; Phyllis Forbes; Reo Griffith; Martha Hicks

Members Absent: None

Call To Order

Chairman Poteat called the meeting to order at 3:30 p.m.
Martha Hicks led prayer.

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

Public Comments

Rachel Deal presented a cake and card to the outgoing commissioners thanking them for their years of service to Avery County.

Paul Davis stated "I am a native of South Carolina. I have owned property in this area all of my adult life. In 2007 my wife and I started plans to build a house and ran into a number of obstacles; one primarily being the right of way to get to our property. From there a number of other problems developed centered around the right of way. I requested based on that the value of the property be lowered and it was but in 2009 the value of the property was still up where it was before the easement right of way problem occurred. The purpose in being here is to ask this commission to reconsider the amount of taxes that I am being charged for the calendar year 2009. I have my file with me. Any records that you may require I can get them for you. If you have any questions, you may ask me."

Phillip Barrier, Tax Assessor, stated that he did not realize that Mr. Davis had not paid the 2009 taxes and he did come to the 2010 Board of Equalization and Review and that is when the adjustment was made.

Chairman Poteat questioned Mr. Barrier if there was precedence set for the Board of Commissioners overturning money that was owed to the tax office. Mr. Barrier stated "no". Chairman Poteat stated that the Board did not make decisions on public comments and is a matter of the minutes and will be considered.

Jack Trivette stated "I was born and raised in this county. I have lived at my same address since the 1950's and at that time there was only one person that lived across the road from me. About two years ago this kid decided he was going to put a trailer about 15 feet off my property line. I even allowed him to use my property to pull his trailer in and cut down Christmas trees so he could get it in there. About six months later he built a dog kennel about one foot off my property line. I have to get up at 5:00 a.m. to go to work and every night I listen to this. (Mr. Trivette had a taped recording of the dogs barking) No one should have to listen to that. I can't open the windows in the night time in the summer time. I can throw a rock and hit that thing. No one has the right to influence everybody else's living that way. There needs to be an ordinance passed against this racket. I am not against dogs, bear hunters, or nothing else but they don't have the right to push their will on me. Something needs to be considered about this. I will build hog lots beside his house."

Chairman Poteat stated that at this point in time there is not an ordinance in place. I appreciate Mr. Trivette being here.

John Millan stated "I had a couple of issues that I wanted to address and also I am proud of the tax offices in Avery County. They made the effort to reach out to me as a disabled veteran and told me about a tax break that I was not aware of. I know the Board has a policy that it does not like people be called out by name so I want to make this clear I am not up here to attack any one personally. As the county coroner I was made aware through a death investigation that I did a preliminary investigation into and referred to the district attorney involving a child welfare issue. A citizen complained to me about the county attorney representing a party who was under investigation by social services and I contacted the Institute of Government and got the information back from the State Bar Association and this association states that it is a violation of their ethics for any governmental entity attorney to represent a transacted person in any place where county officials could be called to testify. As coroner or sheriff's deputies could get called in a child welfare investigation, I think this is clearly a conflict of interest. It says informed consent in writing must be received from all parties and must be specific not a general consent outlining potential conflict of interest. It specifically says the reason county attorney's cannot represent transacted persons where county officials must testify it could have a chilling effect on the testimony of the county

employees who are at will and salaried employees. If there is later litigation and I understand that DSS is a separate entity, however, DSS is funded by the county's liability insurance and I am asking at this time if there is a policy on this, are we getting waiver's from all properties and how do we handle a potential conflict of interest there. I can provide you the policy Bar Rule 1.7. One of the parties involved has an open 9096 drug referral investigation which could be a potential issue.

The other issue that I had

Public Hearing Regarding Possible Purchase of Oakes Property
Motion by Phyllis Forbes and second by Martha Hicks to go out of Regular Session and into a time of Public Hearing to consider purchase of the Oakes Property at 3:50 p.m. Motion unanimously approved.

Chairman Poteat stated that the amount of land referenced in the public hearing notice was 0.4 of an acre but after the survey was completed it was 0.63 of an acre. Chairman Poteat asked for any commissioner comments. There were no comments from the commissioners.

David Burlison, Avery County School Superintendent, stated that he appreciated the county commissioners looking at this and anytime you can get adjacent property to your property it is beneficial. For us, the value of this property is the safety of our children. If you have left Avery High School at that intersection, those buildings are hard to see around. This property provides some flexibility for expansion or rerouting the buses. We appreciate your concern for the children in this community.

John Greene, Chairman of the Avery County Board of Education, comments that as chairman he appreciated the county commissioners looking at this and looking at the safety and well-being of our children. We appreciate this and the students and parents also appreciate it.

Steve Smith, Avery County Board of Education member, said that this property was critical to Avery High School. We have a major problem with storm water drainage. This gives us the ability to open up some of the property in the back that has not been usable. It gives us options to look at a lot of different things. I would like to express my appreciation to every board member and the oncoming board members also.

Jean Taylor-Todd, citizen, questioned the purchase price of the property and the tax value of the property. Chairman Poteat answered that the negotiated price of the property was \$70,000 and the tax value was \$24,000.

Reo Griffith questioned if the property would be deeded to the Board of Education or stay in the county's name. Michaelle Poore, County Attorney, answered that it was her understanding that this would be titled to the Board of Education.

Chairman Poteat declared the meeting to be back in Regular Session after a time of Public Hearing at 4:07 p.m.

Chairman Poteat stated that the Oakes Property would be considered under the County Attorney's Report.

Public Comment Continued

Jean Taylor-Todd thanked Phyllis Forbes and Kenny Poteat for their years of service to Avery County that had been invaluable. She said that she took great personal offense with things that had been said against Phyllis Forbes. She has done an amazing job and the fact that she cared enough as a commissioner she was willing to participate by phone. She has been conscientious and an ear willing to listen.

Ms. Todd also commented that in the last few years as a result of the state actors and county actors she had been diagnosed with PTSD. I have been stalked by the Avery County Sheriff's Department. I have had people at "911" hang up on me. I have had people driving the ambulance be abusive to me and divulged certain HIPPA information. I pay taxes. I don't expect to be hung up on when I call for help which places the county at risk.

Tax Administrator Report – Phillip Barrierr

Tax Collections Report

The Tax Collections for the month of October is \$1,026,812.94.

Motion by Phyllis Forbes and second by Glenn Johnson to approve the Tax Collections Report for the month of October 2014 as presented. Motion unanimously approved.

Regular Releases

Motion by Martha Hicks and second by Glenn Johnson to approve the Regular Releases in the amount of \$3,020.64 for the month of October 2014. Motion unanimously approved.

Motor Vehicle Releases

Motion by Phyllis Forbes and second by Martha Hicks to approve the Motor Vehicle Releases in the amount of \$529.87 for the month of October 2014. Motion unanimously approved.

Recess

Chairman Poteat called for a brief recess.

Chairman Poteat declared the meeting to be back in Regular Session after a brief recess.

Public Hearing Regarding the Community Transportation Program – Debbie Smith

Motion by Martha Hicks and second by Phyllis Forbes to go into a time of Public Hearing for the Community Transportation Program at 4:30 p.m. Motion unanimously approved.

Debbie Smith, Director of the Avery County Transportation Department, explained that the Community Transportation Program was a program that provided assistance to coordinate existing transportation programs operating in Avery County as well as provided transportation options and services for the communities within the service area. The total estimated amount requested for this grant for the period July 1, 2015 through June 30, 2016 is \$426,000 with the total local share being \$53,930. We are asking for four vans, printers and computers that are due to be replaced and a few other small items in the office.

Martha Hicks stated that she had talked to Debbie in the past and that at the Transportation Board meeting there was some talk about hybrid vehicles or diesel vehicles. Ms. Hicks said she had spoken with Mr. Joe Trivette, Director of Public Buildings and Grounds and that he said he did not have the equipment to repair hybrid vehicles. After next week Debbie and Joe are going to get together and talk about these concerns.

Reo Griffith stated that with his own personal experience at the end of the day there would be more money in your pocket with a gas engine.

Debbie Smith requested that the Board approve the Resolution Regarding the Community Transportation Program.

Motion by Phyllis Forbes and second by Glenn Johnson to go out of the time of Public Hearing and back into Regular Session at 4:43 p.m. Motion unanimously approved.

Motion by Glenn Johnson and second by Martha Hicks to approve the Community Transportation Program Resolution Section 5311 for Fiscal Year 2016. Motion unanimously approved.

County Manager Updates – Woodie Young

NC DOT Snow Clearing Policy

Woodie Young, Interim County Manager, stated at the last board meeting it was requested for me to get a hold of Jerry Combs and asked him to be here. He stated he had to close out the maintenance department and had a meeting with DENR and would be unable to attend the meeting today but he also said he would be more than willing to sit down with any board member that would like to call between 7:00 a.m. and noon and go over the state policy. Mr. Coombs said that his department if he were or were not cut in the budget it would make no difference to the snow removal policy. The snow removal part of his budget is at the top and any cuts that were made to his budget started at the bottom. He does have his coffers full of salt at this time. He says that any time he makes an additional request to the state the first thing that they ask him if he is following the state policy. He assured me and asked me to assure the Board that you will see very little if any difference in snow removal from last year to this year.

DSS Offices at the Health Department

Mr. Young stated that the Department of Social Services is scheduled to move this week.

Painting of the Upstairs Administrative Building

Mr. Young said he had gotten an estimate to paint the upstairs of the Administrative Building. This has not been done since 1995. The estimate for this would be \$5600.00 and would come out of repairs and maintenance for buildings and grounds. This painting would be done afterhours. Mr. Greene said that he could move some money over to the repairs and maintenance line item later on this month. Mr. Griffith said you can move money from special appropriations and Mr. Greene said yes we can. Glenn Johnson said I think this would be a good time to do this and obviously the buildings need painting. In addition, I think Mr. Young needs to be working on a schedule for painting county buildings and replacement of carpets and floor coverings.

Unanimous consensus of the Board to paint the upstairs of the Administrative Building.

Puckett Property Update

Today is the last day for the upset bids to come in. The prospective buyer wants the power turned on to the building. He is going to have an inspector come to look at the building. I have made arrangements for a member of maintenance and Mountain Electric to be there. Mr. Williams is to give us a day's notice. He thinks he can have it turned on and turned off the same day. If everything is to his liking, he will be willing to close very rapidly.

Reo Griffith stated that if this water pans out with the inspector and since we have already voted to do the sale, I think we need to proceed immediately.

Motion by Reo Griffith and second by Martha Hicks to proceed immediately with the sale of the Puckett Property and that the Chairman execute the deed and all of the documents associated with the sale. Motion unanimously approved.

Renovation of Courthouse – Nick Montanez; Tony Street

Nick Montanez explained that he wanted to have the opportunity to address the issues that the commissioners may have with the project. Currently, we are looking at completion of the project by the end of November. This would be the interior portion of the building. The exterior portion of the building is anticipated to be completed by the middle of December. From a financial standpoint the project is in very good shape. We have five change orders that have been done on the project and I expect a sixth change order with some outstanding proposals that have to be reviewed and approved. Mr. Young has indicated there may be some additional scope of work to be done which would carry the project through the end of November into the December timeframe.