

**STATE OF NORTH CAROLINA
COUNTY OF AVERY**

The Avery County Board of Commissioners met in a Special Meeting on Wednesday, October 7, 2015 at 3:00 p.m. in the Commissioners Board Room, Avery County Administrative Complex, 175 Linville Street, Newland, NC. The purpose of the special meeting was to discuss and take any necessary action on the following items:

1. Public Appearances (Comments)
2. Board Appointments
3. Avery County Transportation Advisory Board Operational Bylaws
4. LightLeap (NC Wireless)
5. Avery County Solid Waste Update
6. Tax Administrator Report
7. County Manager Updates
8. Finance Officer Report
9. County Attorney Report
10. Closed Session
11. Approval of Minutes
12. Agenda Consent Items
13. Informational Items
14. Upcoming Meetings

Members Present: Robert Griffith, Chairman; Maxine Laws, Vice-Chair; Martha Hicks; Faith Lacey; Blake Vance

Members Absent: None

Call To Order

Chairman Griffith called the meeting to order at 3:00 p.m.
Tim Greene led prayer.
The Pledge of Allegiance to the flag was recited.

Public Comments

Woody Young, Avery County citizen, commented that he would like to mention the Veteran's Memorial. It was brought to my attention about six weeks ago that it possibly was the intention of this board not to name the veterans who did serve before Avery County became a county in 1911. I would hope that this Board, if that was a decision, would reconsider because if it was not for the Revolutionary War veterans, Spanish-American War veterans, and Civil War veterans our great Nation might not be what it is today. I would like very much for you to consider to include all veterans. I would like to thank Ms. Martha and Ms. Georgia Henry for working on the Veteran's Monument.

Board Appointments

Morrison Library Board

Tim Greene, County Manager, explained that there were three positions open on the Morrison Library Board. There were three applications. This has been advertised and reviewed. These positions are for three year terms.

Motion by Martha Hicks and second by Maxine Laws to appoint Susie Potter; Kathie Masee; Stephen Bender to the Morrison Library Board. Motion unanimously approved.

Jury Commission

Mr. Greene stated that there was one application for one position on the Jury Commission. Linda Ollis Taylor is the applicant. That position has been advertised and reviewed.

Motion by Blake Vance and second by Maxine Laws to appoint Linda Ollis Taylor to the Jury Commission. Motion unanimously approved.

Avery Fire Commission

Mr. Greene stated that House Bill 673 established the Avery County Fire Commission. The Fire Commission consists of a five member board; two of the board members shall be consumers appointed by the Avery County Board of Commissioners; two of the board members shall be firemen approved by the Avery County Fire Association and appointed by the Avery County Board of Commissioners; the other four sitting members of the Commission shall choose the remaining member. There is one application from Bill Beuttell. This position has been advertised and reviewed.

Motion by Maxine Laws and second by Martha Hicks to reappoint Bill Beuttell to the Avery Fire Commission. Motion unanimously approved.

Board Appointment Applications for Review

There are two applications for two positions to be reviewed for the Avery Airport Authority. One is Sam Calvert and the other is Sam Ray, Jr. These positions have been advertised and will be voted on at the meeting in November.

Avery County Transportation Advisory Board Operational Bylaws – Debbie Smith

Debbie Smith, Director of Avery County Transportation, reported that she had presented some operational bylaws at a previous meeting and we found some issues and wording issues in the previous document. We have revised the bylaws by a new template that the state had. The County Attorney has gone over the bylaws. I would request that the Board approve these bylaws. Gerald McKinney, County Attorney, stated that he recommended these bylaws be approved.

Motion by Blake Vance and second by Maxine Laws to accept the Avery County Transportation Advisory Board Operational Bylaws as written and approved by the County Attorney. Motion unanimously approved.

Lightleap (NC Wireless) – Bill Shillito

Bill Shillito thanked the Board for the foresight this body had in inviting us to be a part of the solution for Broadband in the county. I wanted to review quickly how we became involved here in Avery County. We were contacted about four years ago by the NC Department of Commerce and Keith Conover represented them at that time. That position has now moved to the position of IT in North Carolina. He invited us to come and meet with the leadership here under the board's request. We outlined some opportunities that we might be able to work together. This board allowed us access to Hawshaw Mountain and from there we put out an opportunity to do a beta test site. That was about two years ago. We are a company out of Hickory, North Carolina. You allowed us access and didn't charge us rent for the first couple of months but now the process is in place that we are invoiced. This is a win-win for us. We currently have 81 households that we are servicing. There has been no cost to the county and we are generating a little bit of revenue. I know that you have a Broadband committee and are working on Broadband and we would like to be a part of that process. Martha Hicks stated that there is a tower at Beech Mountain and maybe he could look at that for the communities of Banner Elk, Heaton and Elk Park. Doug Gragg explained about some of the other service providers including Lightleap. Maxine Laws commented that everyone will be included in the conversation regarding broadband in Avery County and every provider that is here will be invited to participate. Ms. Laws said that the county would be applying for grants. Chairman Griffith questioned if there was a tower on Buck Hill would it cover 80% of the requests? Mr. Shillito said that it would cost approximately \$26,000 for the tower at Buck Hill site. Chairman Griffith asked Tim Greene, Maxine Laws and Gerald McKinney to explore the Buck Hill site to see if there was any way the county could assist. Tim Greene stated that the county was in the midst of doing a survey regarding lack of broadband service. It will close at the end of the month. Currently there are 695 that have completed the survey. As soon as the survey closes, Keith Conover will be getting the information and then we will be meeting again with the providers. There will be information given to the providers about the areas in need. We want the residents to have the access but we realize that would be a business decision with the providers.

Avery County Solid Waste Update – Eric Foster

Eric Foster, Avery County Solid Waste Director, reported that the county is utilizing a state grant for implementation of two compactors for comingled recycling. We will have four compactors at the collection centers here in the county. Banner Elk and Three Mile are using the compactors currently. The new ones going in are at the Three Lane and Linville. With the compactors going in at these sites, the citizens will be able to put in plastic, paper, cardboard, aluminum and metal cans in the same container. With the new compactors we are averaging 5 ton in each compactor which is saving ten trips as compared to the old compactors. Mr. Foster commented on the savings that the county was realizing with these compactors.

Tax Administrator Report – Phillip Barrier

Tax Collections Report

The Tax Collections for the month of September 2015 is \$1,153,300.42.

Motion by Blake Vance and second by Maxine Laws to approve the Tax Collections Report as presented for the month of September 2015. Motion unanimously approved.

Regular Releases

The Regular Releases for the month of September 2015 is \$798.88.

Motion by Martha Hicks and second by Faye Lacey to approve the Regular Releases as presented for the month of September 2015. Motion unanimously approved.

Exclusion for Improvements to Residential and Commercial Real Property

Mr. Barrier stated that this exclusion is for builders and developers. This is a new law. Instead of a deferral for builders and developers it is an exemption for three years. This is what could happen, for example, if a developer comes in and has 300 acres and he goes in and builds roads and develops lots, we cannot tax the lots if he files for the exemption for three years. We cannot tax new houses that are built on those lots for three years. There could be some impact on our growth with this.

Mr. Barrier commented on some revaluation sales.

County Manager Updates – Tim Greene

Painting at the Courthouse

Mr. Greene stated that painters had been at the courthouse finishing the corners and the cornices.

Toe River Health District

Mr. Greene stated if you will recall the health department sold the Home Health portion of the health department. In years past the home health program was a moneymaker for the health department. They used that money to fund some of the other operations. They no longer have home health. They did get 2.9 million dollars and over the next coming year the 2.9 million dollars will be funding the other operations. After that money is gone, all three counties will be faced with potentially kicking in another \$100,000-\$150,000. Each year we will be reminded that this is looming on the horizon.

Finance Officer Report – Nancy Johnson

Budget Amendment

The Avery County Sheriff's Office has received a grant from the NC Department of Public Safety Governor's Crime Commission for body cameras. This grant does not require matching funds.

Motion by Blake Vance and second by Martha Hicks to adopt a Budget Amendment in the amount of \$15,000 with a debit of \$15,000 to Crime Prevention Expense (10.5100.5710) and a credit of \$15,000 to Governor's Crime Commission Grant (10.3615.0000). Motion unanimously approved.

Budget Amendment

The Avery County Sheriff's Office has received a grant from the U.S. Department of Justice/SCAAP for the jail. Plans are to purchase camera equipment.

Motion by Martha Hicks and second by Blake Vance to adopt a Budget Amendment in the amount of \$6,133 with a debit of \$6,133 to Security (10.5200.4175) and a credit of \$6,133 to U.S. Department of Justice Grant (10.3614.0000). Motion unanimously approved.

Budget Amendment

The Avery County School System received an approved state budget on September 18, 2015. The school system will be short funding for driver's education in the amount of \$15,070 and short for transportation in the amount of \$189,475 (total of \$204,545).

Motion by Maxine Laws and second by Blake Vance to adopt a Budget Amendment in the amount of \$204,545 with a debit of \$204,545 to Avery County Schools (10.7000.6100) and a credit of \$204,545 to Fund Balance Appropriation (10.3990.0000). Chairman Griffith stated that this was the largest funding that the school system had received in 12 years. Motion unanimously approved.

County Attorney Report – Gerald McKinney

Gerald McKinney, County Attorney, reported that at a previous meeting we made an appointment to the Board of Trustees of Mayland Community College which was Jennie Harpold. One of the requirements of the position is that no person who has been employed full time by the community college the prior five years shall serve on the Board of Trustees of the college. There has been some disagreement as to whether or not she was a full time employee. I was directed by the counsel for the college to contact Chantae Martin who is the counsel for the community college system within the state. She advised that there should be a policy that the Board of Trustees has adopted for job classification. I asked the attorney to send it to me. There are three basic classifications, one is part-time, one is annual part-time and the other is full-time. Ms. Harpold was annual part-time. Based on that opinion from counsel and the way they have classified it, they have agreed that if the board agrees that her appointment would not violate the statute they would have no objection to her serving. I think we have worked through this and everyone is on the same page now. They would like the board to put it in the minutes that they are in agreement she is not a full time employee and her appointment does not violate Section 115D-12 (b)(1) of the statutes. I would recommend confirmation of this.

Consensus of the Board that we approve the standing on the last vote of Ms. Jennie Harpold to the Mayland Community College Board of Trustees.

Approval of Minutes

Motion by Blake Vance and second by Maxine Laws to approve the September 8, 2015 Minutes. Motion unanimously approved.

Agenda Consent Items

Adopted by Consensus of the Board.

Announcement of Upcoming Meetings

A public hearing will be held on October 22, 2015 at 3:00 p.m. in the Commissioners Board Room regarding the Community Transportation Program Grant for Avery Transportation. The meeting with the Avery County Board of Education for October 8, 2015 has been canceled due to a death in the superintendent's family and is rescheduled for October 13, 2015 at 4:00 p.m. at the Viking Hall at the Avery County High School.

Budget Amendment

A previous budget amendment that had been tabled was requested at this time.

The Avery County Department of Social Services has received additional funding from the State for the Crisis Intervention Program.

Motion by Maxine Laws and second by Blake Vance to adopt a Budget Amendment in the amount of \$1,329.00 with a debit of \$1,329.00 to Crisis Intervention (10.6800.6090) and a credit of \$1,329.00 to County Welfare (10.3634.0000). Motion unanimously approved.

Discussion

Martha Hicks stated "I would like to clarify a few things that have been brought to my attention. The first thing that I would like to clarify is that our policy manual for the Avery County Board of Commissioners in the policy manual it says that our manager makes up the agenda. We have had a few people that were told to go get on the agenda and they were told they could not be on the agenda. With the board and the manager doing the agenda, we can clarify that. On this board there is no one that has any more power than the other. We need to clarify that when people ask to be on the agenda they check with our manager and if he has a problem with it then he will get back with the board.

Chairman Griffith asked Ms. Hicks if she could read the policy.

Ms. Hicks stated "It says right here when the county manager releases the material to the clerk and the board all documents are a matter of public record with an exception of items that are not scheduled for closed session. Unless required by the state law, all documents and materials in the county manager's possession prior to being released to the clerk to the board is considered by the board as privileged material and may be treated confidential." I also have a document here that says "Who has the legal authority to dictate what goes on the agenda? The answer to this question is very clear, it is up to the governing board to set the agenda in legal and practical terms. It is the Board's agenda and it is up to them to decide on the matters in which to take up in the meeting. The decision is that of the body not the chair or an individual member unless a law or board policy provides otherwise. Decisions about what goes on the agenda or coming off of it or what is actually addressed in the meeting are made by the board by priority vote."

Blake Vance said "I will clarify that. Section 2.1 of the county commissioners policy says to avoid communication issues all agenda materials or questions to be considered by the board will be forwarded to the county manager who will in turn will forward these items along with any supporting documentation to the clerk to the board according to the criteria set forth in this policy."

Maxine Laws questioned "Are we saying that if someone wants on the agenda then three of us will have to say no or yes?"

Chairman Griffith said "Is that in accordance with our policy? Mr. McKinney will you research that and we will govern ourselves accordingly."

Faye Lacey commented "Tim, our manager, would need to call each member then if there is an agenda item and then if he gets three votes go with that."

Blake Vance said "My understanding is the default is that Tim sets the agenda and if three of us say no to an item then perhaps it doesn't come up on the agenda. I think the default is that Tim sets the agenda."

Tim Greene stated "When we get to the point where whoever has requested to be on we can work up that tentative agenda and then call or email and if anyone has an issue with it we will talk through it and then it would be up to the Board to say yes or no."

Chairman Griffith said “Mr. McKinney research the policy, please “ Mr. McKinney stated “With my first reading there is really not a mechanism for approval or disapproval or how it is set. Materials are sent to the manager and the materials are compiled and sent to the clerk and the clerk transmits it to the board with your recommendations. So whether or not something is on the agenda at least right now I am not reading that there is a mechanism to setting the agenda. I want to look at this more closely. Section 2.2 says the agenda is provided to the board and a description will be given on what is to be considered along with the recommendation. As far as it being on the agenda itself, it says all the materials or questions to be considered by the board will be forwarded to the manager who will in turn forward it with any supporting documentation to the clerk according to criteria set forth in this policy. I am not necessarily seeing that there is an opportunity for the board to determine if something should or should not be on the agenda.”

Blake Vance said “essentially if somebody wants to be on the agenda they go to the county manager and then it is the county manager’s discretion to put it on the agenda and then it is public and then the commissioners get their say in the public meeting.” Mr. McKinney said “I think that is the way we have been treating it but I don’t know that is what it says. I don’t know what if that is what that is saying.” Martha Hicks said “the reason I brought that up last month a person called me and wanted to get on the agenda and I told them to call and get on the agenda. They did and they were told they could not be on the agenda after I had told them. The manager did not tell them that. I told them they would have to call Cindy and get on the agenda and then sometime after that they were told they could not be on the agenda. I wanted to clarify about getting on the agenda. According to this policy it is up to the manager, because it says it here in the county commissioner’s policy.” Tim Greene said “Since there has been some confusion if someone comes to me for whatever reason and I don’t think they need to be on I will call everyone and let you all have the chance to say yes or no. If there are situations that come up and I don’t think it is an agenda item I will just call and ask each one.” Maxine Laws said “I think this is good because lots of times I tell people if you are out somewhere and they want to know something I tell them they are welcome to come to our meeting. I am glad that is being discussed because I tell people a lot you are welcome to come and talk if you need to be on the agenda or speak in public comments.”

Adjourn

Chairman Griffith adjourned the meeting at 4:35 p.m.

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

ATTEST: _____
Cindy Turbyfill, Clerk

