

**STATE OF NORTH CAROLINA
COUNTY OF AVERY**

The Avery County Board of Commissioners met in Regular Session on Monday, August 5, 2013 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.

Chairman Poteat announced that if anyone 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.

Glenn Johnson led prayer.

Proclamations and Awards

Glenn Johnson commented that this past Tuesday night he had the privilege to attend Sheriff Kevin Frye's swearing in ceremony as President of the NC Sheriff's Association; this was at my own expense. This is not an honor just for the sheriff but an honor for Avery County. This is the first time an Avery County Sheriff has been elected by his peers as President of the NC Sheriff's Association. Some 300 plus people were in attendance. Avery County was well represented. Sheriff Frye's speech was eloquent and made Avery County proud. Congratulations to Sheriff Kevin Frye.

Public Comment

Robert Wiseman, County Manager, introduced David Nicholson who is a representative from the NCACC.

Reo Griffith stated "there are some things that I want to bring to the public's attention. One of them I am proud to report. Under the original NC Senate budget Avery County would have lost \$666,612 in revenue from the state of North Carolina. While on a trip to Raleigh, I met with David Thompson, Executive Director with the Association of County Commissioners and we also met with State Representative Josh Dobson and Senator Dan Soucek. I expressed my concerns about the loss of our revenue. I am proud to report to the citizens of Avery County and taxpayers that instead of losing \$666,612 dollars in state revenue Avery County is gaining \$72,868. This is a \$739,480 difference from the taxpayers of Avery County. Mr. David Thompson sent me a letter which I will read a line from:

Dear Robert, I just want to write a quick note and thank you for your help in protecting county revenues during the General Assembly Tax Reform effort. You have helped us to achieve one of our top goals of the legislative session.

Also, I have just come from the 3 lane and spoke with Mr. Jerry Combs at length. Construction is in progress. They are going to have to dump 70,000 tons of rock in that hole. He said if the weather holds off and things go well that they have a November date set and will very possibly have the 3 lane opened back up by November. Jerry also mentioned about putting a lot of local contractors to work.

Phyllis Forbes thanked the county manager for his diligence and hard work especially in getting the convenience site open. He did all of the leg work and phone calls to the proper authorities. That is part of his job. We can go down there and look at it but his job is to do the leg work and get things done. I appreciate all the hard work that he did.

I also would like to make a comment about something that has been bothering me. As county commissioners, the state recommends that we adopt a code of ethics for this board. In doing that, our code of ethics that we have adopted is very similar to what the state recommends. I have had the code of ethics reading over it and I would like to take this opportunity to remind the board of what is in the code of ethics. First of all, as individuals on this Board, we recognize that we are each part of a larger group and that we act accordingly. We have to recognize that individual board members are not generally allowed to act on the behalf of this board but may only do so if the board specifically authorizes it and that the board must take official action as a body. As individuals, we don't have very much power. It takes a majority vote for anything we decide. Another thing is not reaching conclusions on issues until you hear all sides. We need to hear all of the information as a representative of the people of this county. Lastly, treating other board members and the public with respect and honoring the opinions of others even when board members disagree with those opinions. We are representative of the people of this county and we

need to act with dignity and respect. That has been really on my mind and I felt like the thing I need to do is get it out there.

Martha Hicks stated that last week on Thursday that one of our employees retired with 30 years of service and that was Ms. Linda Cuthbertson. She worked 7 years for WAMY and then came on board as Director of Transportation. We recognized her with a plaque. A new director has been hired for Transportation and her name is Deborah Smith.

Glenn Johnson stated "I would like to remind the board and public of some things. NC State Statute 153A-82 powers and duties of the county manager: The manager is the chief administrator of county government. In other words, everything flows through the county manager. One individual commissioner has very little power. We as a group have quite a bit. Everything flows through the county manager not going to individual departments, going to attorney's or going here and there on your own. He shall appoint with approval of the board of county commissioners and suspend or remove all county officers, employees, and agents except those who are elected by the people or whose appointment is otherwise provided by law. The Board may by resolution permit the manager to appoint officers, employees or agents without first securing the board's approval. Section 13 Policy states that under NC GS 153A-82 Avery County operates under a county management style of government. The authorities delegated to the County Manager under these circumstances are as follows: (a) He/She shall appoint, suspend, or remove all county officers, employees, and agents except elected officials or appointments otherwise provided by laws; and (b) shall make his/her appointments, suspensions, and removals in accordance with any general personnel rules, regulations, policies, or ordinances adopted and approved by the Board of County Commissioners, and (c) shall direct and supervise the administration of any county offices, departments, boards, commissions, and agencies under the general direction and control of the Board. It is not my job to micromanage each and every department; that is the county manager's job. He is the chief executive officer who is responsible for the management, professional and administrative duties of the county's operation; the person accountable to the Board of Commissioners."

Public Hearing regarding Expenditure of Funds to Install Energy Efficient Windows, Heating Systems, and a New Sign in regard to AC PRIDE

Motion by Phyllis Forbes and second by Martha Hicks to go into a time of Public Hearing regarding expenditure of funds to install energy efficient windows, heating systems, and a new sign in regard to AC PRIDE at 3:50 p.m. Motion unanimously approved.

Bret Gardella, Economic Development Director, stated "these are continuing projects that are going on at the AC PRIDE to help us get open. We have had a previous public hearing a couple of months ago which approved the sprinkler system and ramp. We have some other improvements to make on the property to make it more enjoyable for the tenants that we are going to have coming into the facility specifically the windows. We need a sign for the property. As we move into the winter season, we need to install heating systems and we have looked at several different aspects and the smartest thing to do is not to use the system now because it is outdated. We are looking at using the individual Mitsubishi units that are very energy efficient. Those are the three items."

The proposal for the windows is \$57,570. The heating system in the budget this year was \$20,000 and this would do about 6-8 spaces according to the unit used. The sign will cover the street side and above the front entrance will be a sign. The approximate cost for the signs are \$3500.00. Mountain Electric has promised a grant to pay for the sign.

Glenn Johnson questioned how many grants that Mr. Gardella had received from Mountain Electric. Mr. Gardella answered "I am not sure, probably 6 or 7."

Tim Greene stated that there was \$71,500 budgeted for projects at the AC PRIDE.

Chairman Poteat stated that Mr. Gardella had alluded to approximately \$80,000 worth of projects. Mr. Gardella said that the \$3500 for the sign would come out of the marketing budget. Mr. Gardella stated that he had also met with Robert Wiseman and Tim Greene about moving money interdepartmental from other line items to cover those costs so it would not require a budget amendment.

John Wright, small business owner in Banner Elk, thanked the Board for what was taking place at the old Banner Elk School. The services the county offers to local people are very important. I am proud of the fact of what the county is doing at the building in Banner Elk.

Kim Hyatt said she had worked downtown of Banner Elk for 7 years. We need this source of retail business and there is a lot of opportunity. If we can build businesses in, it will spill over to the whole county.

Mary Elder Frisbie, citizen from Beech Mountain, stated that she had graduated from Cranberry High School. I have been around Banner Elk for a long time. I want to thank the county commissioners for your help and interest in the Banner Elk School and its preservation. I think the mentoring of the businesses will give people who have ideas and want to start a business some help. A great percentage of small businesses fail because of simple lack of knowledge. We have the land and the building in this county and it has great appeal for economic growth. Along the line it is greatly needed in Banner Elk. There are hopes for antique stores and artisans. We have to face it Banner Elk is largely dependent on the tourist and second home community. This would be a place for people to enjoy different types of businesses. I wanted to say that I strongly endorse the help you are given this county and that area economically.

Greg Gardner, citizen from Three Mile Community, stated that there was one citizen from every community in Avery County that opposes the business incubator in the old Banner Elk School. We request that the property be sold for the reasonable and best offer and proceeds be used for the best interest and welfare of the county. We all make mistakes and try things that don't work out; it is time to take the losses and move on.

Johnny Carson, local business owner and president of the Newland Business Association, thanked the Board for their support and the interest and what you have done to develop the economy and improve it in Avery County. It is a tough place to run a business. I want to encourage you not only to stay where you are at but "mash the gas" on economic development. We need help. More businesses are going to attract more families.

Chairman Poteat stated that Mr. Gardner had alluded to other communities represented at this meeting and they would like to go on record opposing the incubator. Chairman Poteat asked for a show of hands which approximately 8-10 people raised their hands.

Rick Luttrell, contractor working on the incubator project, stated "the county of Avery needs this project. I am a small businessman and have been here for 30 years. The greatest generation of our history built that school. I think it is a shame to let the building disintegrate or even selling it would be a shame. The workmanship on it is just amazing. There is no mold. There is nothing out of the ordinary about the building built in 1939. I think it is a fantastic idea to bring people into the area plus keep your children here. I am proud that I have been called on to do the work. I am doing the best job I can do on it."

Glenn Johnson stated "Mr. Luttrell have I previously told you I was going to ask you any questions?" Mr. Luttrell stated "no". Mr. Johnson questioned "How long have you been in the construction business?" Mr. Luttrell stated he had been doing this for 38 years. Mr. Johnson questioned "Have you worked on other old buildings?" Mr. Luttrell answered yes. Mr. Johnson asked "What would you say about the construction of the old Banner Elk School?" Mr. Luttrell said "it is some of the best that I have ever seen and I know for a fact it is the best I have ever tried to tear down. I worked on one small wall area to try to remove the brick that was laid. It is an incredibly strong building. It is a super built building. My concern right now are the windows because if something is not done soon it is going to start rotting all the frame out and then you are talking about big bucks to replace them. I think you can have volunteers to help with the landscaping. There are small things that need to be done. In the scheme of things where in the world are you going to get a building with that square footage even if you spend \$200,000 or \$300,000 you still have a building worth millions. You can't buy the property for \$300,000." Mr. Johnson questioned if Mr. Luttrell had observed any floor caving, bulking or rotting. Mr. Luttrell said "there is only spot that I saw and that was by the gymnasium side door and I believe that was from snow build up but not something that is excessive. There is no mold in the building but some leak spots in the ceiling but the tiles can be replaced. I am building handicapped bathroom and storage room. The people in the WPA put everything together with pegs because there were not many nails comparable to what we have today; they actually hand cut every peg. You could not build something like that today. I did not see any major structural items of any sort."

Sharon Robbins stated "I am postmaster of Banner Elk. I have been coming to Banner Elk since 1974 and have loved the town. I have watched the numbers decline with the residents and closing of businesses. I came from an antique town from Waxhaw and that town almost died because we had commissioners and mayor that did not want to change. In Waxhaw there was a school similar to the one in Banner Elk but the town would not do anything with it and the building has deteriorated. I hate to see the history that we are going to lose."

Spencer Robbins stated "I attended Lees McRae College in 2003. I have seen the decline in the area. The school is a great building to use. A lot of events can happen there. If you sell the property they are

going to tear that building down and we will lose that building. With the training that Bret is providing and the opportunity of the building, it is going to let the business bloom up in this county.”

Peter Olach said “One of the requirements for the incubator is to have a business plan and analyze why we need to be there. I found some interesting things about why this is the best spot. 15 million people travel the parkway; 9 million visit the Smokies so there are approximately 24 million that pass from one end of the state to the other so we need to give them a reason to come here. We have a beautiful building; a centerpiece for Avery County. I highly encourage you to give the community a chance to celebrate itself and put that building to best use.”

Glenn Johnson stated “First off I would like to define economic development and this is not just about producing jobs. This comes out of Auburn University from a man called Joe Summers who says ‘economic development has been defined as a process by which a community creates, retains and reinvests wealth and improves the quality of life. When many hear the term of economic development they think about recruiting industry. Bringing economic health and prosperity to the community requires much more than just enticing a company to open a new plant at a local industrial park. More importantly, prosperous local communities are built on the foundation of strong community. Community and economic vitality is largely determined by the quality of leaders in a community and how individually and collectively they talk, decide, act and interact with one another. We often overemphasize marketing and sales and pay too little attention to product development or improving the quality of life in the community. While industry recruiters play important roles in the economic development of their communities so do the high school coach, hospital administrator, plant manager, Sunday school teacher, city beautification counsel and citizen who organizes a town meeting.’ Mr. Gardella is not just working on this incubator.” Mr. Johnson read a list of 41 different things that Mr. Gardella has been or is currently working on. Mr. Johnson stated that he serves on some four boards, Ms Hicks is on 9 boards, Mr. Poteat serves on 5 boards, Ms. Forbes serves on 5 boards and Mr. Griffith serves on one board.

Mr. Johnson also commented that the incubator was something that was set forth by a unanimous decision of the previous board and has been upheld time and time again by a majority vote of this Board.

Martha Hicks stated “As I was looking back at our tax report there have been seven businesses that have closed that owes back taxes. What if they had the training that they could have gotten and had a place like the school where we are trying to set up, they may not have gone out of business. We have 17 spaces in the Banner Elk School that we can rent out. There are 5 acres that can be used and then to just let a building set there and be broken in to which has already been done. The market is down on selling and if we can create something to bring people into our county I think it is well invested tax money. I know the school needs some repairs. I have thought a lot about this and I would rather see us open the building than to leave it closed and be vandalized.”

Chairman Poteat stated that he greatly appreciated the 9 persons that spoke whether you are for or against it doesn’t matter, the fact is that you have a right to speak.

Phyllis Forbes commented “ I went over to the Banner Elk School and walked through and talked about the new windows. Letting any building just sit there empty it is going to deteriorate very quickly. All we are going to be doing is increasing the property by fixing the building. We have an investment in people’s future because we want businesses to be successful. The more sales tax revenue and the more people come here the more options for revenue. I support doing the work on the Banner Elk School.”

Reo Griffith stated “Ditto to what most of you have said. This is government at its best. Men and women died for debate. Agree to disagree. Mr. Chairman, the AC PRIDE project was unanimously approved, which I was not on the board at that time, on January 3, 2012 as an economic development project. North Carolina General Statute 158-7.1 applies, specifically D2, to the Board of County Commissioners . All I have to say is there are strict procedural requirements concerning economic development.”

There were no further comments.

Motion by Phyllis Forbes and second by Martha Hicks to go out of the Public Hearing and back into Regular Session at 4:50 p.m. Motion unanimously approved.

Chairman Poteat advised that the windows, heating systems and new sign have been budgeted for. Unless otherwise directed, that is where the monies would be expended. This matter has been settled with the budget process. Would anyone like to make a motion contrary to what we have decided?

Mr. Griffith stated “I will make a motion concerning strict procedure requirements that have not been met. No existing distressed or start up business will be able to afford to pay the wages or provide the property

improvements to the incubator as required by NC General Statute 158-7.1(d)2. The AC PRIDE Economic Development Project as presented to the Town of Banner Elk is not feasible under NC law.

Motion by Reo Griffith to table the current proposal to expend money on the AC PRIDE Economic Development Project until further investigation.

Motion died for lack of a second.

Motion by Phyllis Forbes and second by Glenn Johnson to authorize the expenditure of funds to install Energy efficient windows, heating systems, and a new sign in regard to AC PRIDE.

**VOTE: Motion passes 4 to 1. FOR: Kenny Poteat; Glenn Johnson; Phyllis Forbes; Martha Hicks
AGAINST: Reo Griffith**

Recess

Chairman Poteat called for a 3 minute recess.

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

Appointments

Avery County Agricultural Advisory Board – Ann Coleman

Ann Coleman, Chairman of the Avery County Agricultural Advisory Board requested that Mr. Waightstill Avery be reappointed to the Agricultural Advisory Board. Mr. Avery has agreed to continue to serve on this board.

Ms. Coleman also announced that there would be a Farm Tour on August 24, 2013 with the tour ending up at the Avery Farms.

Motion by Martha Hicks and second by Reo Griffith to reappoint Mr. Waightstill Avery to another three year term. Motion unanimously approved.

Avery County Morrison Library

There are three vacancies on the Avery County Morrison Library Board. Dr. Daniel Barron would request that Donna Dicks, Russell Taylor and Doug Roberts be appointed to serve on this board. There are two vacancies on the AMY Regional Library Board. Donna Dicks and Russell Taylor have agreed to serve on this board also.

Motion by Phyllis Forbes and second by Glenn Johnson to appoint Donna Dicks, Russell Taylor, and Doug Roberts to the Avery County Morrison Library Board and Donna Dicks and Russell Taylor to the AMY Regional Library Board. Motion unanimously approved.

Avery County Joint Community Advisory Committee

Ms. Jean Ray's term on the Avery County Joint Community Advisory Committee will expire August 16, 2013. She has indicated her desire to be reappointed for an additional three year term.

Motion by Martha Hicks and second by Glenn Johnson to reappoint Ms. Jean Ray to the Avery County Joint Community Advisory Committee for an additional three year term. Motion unanimously approved.

High Country Workforce Development Board

The terms of Sallie Woodring and Truman Robbins are expiring. Ms. Sallie Woodring has expressed her desire to continue to serve on this Board. Mr. Tom Hughes, DSS Director, has indicated that he would like to serve on this board.

Motion by Phyllis Forbes and second by Reo Griffith to appoint Sallie Woodring and Tom Hughes to the High Country Workforce Development Board. Motion unanimously approved.

Strong Tower

Heidi Legg with Strong Tower stated that she was seeking approval from the Board of Commissioners to place a new domestic violence shelter in Avery County and before we go any further we wanted your approval and to make sure we were going about things in the correct manner.

Chairman Poteat read aloud what was included in the packet which stated: *Strong Tower is requesting the support of the County commissioners to establish a nonprofit domestic violence/sexual assault shelter in Avery County. The Board of Directors is requesting assistance through the county commissioners for annual auditing, in the near future, in conjunction with state requirements.*

Tim Greene, Finance Director, said that Avery County's annual audit would not cover this and if there was additional work done there would be an additional charge. Any grants that flow through the county gets audited by virtue of that.

Ms. Legg stated that this project is in the development stage and as far as auditing goes we want to be sure we are doing everything properly and have another set of eyes with the state dollars coming in. Mr. Greene said that the county could pay for any services that they are requesting or the organization could engage an outside audit firm to provide those services. Michaelle Poore, County Attorney, said that Avery County does not do that with any other nonprofits.

Connie Guinn, Board of Directors, said we are wanting the County Commissioners support and to let you know what we are trying to get established. Phyllis Forbes said personally she knew that this was a need in the county and personally they have her support. Chairman Poteat stated the proper approach to this would be for the Finance Director to talk with Ms. Heidi Legg and get precisely what they need and then research with the County Attorney and hopefully have an answer by the next time we meet.

Tax Administrator Report – Phillip Barrier

Tax Collection Report

The total Tax Collections for the month of July 2013 is \$159,652.

Motion by Martha Hicks and second by Glenn Johnson to approve the Total Tax Collection Report as presented. Motion unanimously approved.

Total Releases

The Total Releases for the month of July 2013 is \$1081.87.

Motion by Phyllis Forbes and second by Glenn Johnson to approve the Total Releases as presented. Motion unanimously approved.

Motor Vehicle Releases

The total Motor Vehicle Releases are \$912.22; \$552 is city taxes.

Motion by Martha Hicks and second by Phyllis Forbes to approve the Motor Vehicle Releases for the month of July 2013 as presented. Motion unanimously approved.

Sales Statistics

There were 31 sales the first four weeks of July. There were 6 foreclosures for the month. The sales amount was higher than the assessed value so hopefully everything is leveling out. Tax bills will be sent out in August.

County Manager Updates – Robert Wiseman

Courthouse Renovation

Robert Wiseman, County Manager, updated the Board on the renovation at the courthouse. This week pedestrian traffic will have to enter the courthouse at the entrance closest to the museum. Handicapped access will be available through the Sheriff's Office. There is no ingress or egress through the front doors at this time. Demolition of the old courtroom has begun; the antique seats have been removed and the Cranberrian Corporation will be putting them to use.

Condemnation of Well at Heritage Park – Jerry Moody

Jerry Moody, Director of Agricultural Extension and President of the Avery Fair Board, explained that the well at Heritage Park has been condemned due to the presence of fecal coliform. The well has been tested five times. Last year the health department tested the water and it showed up the presence of fecal coliform so potable water had to be purchased for the vendors. We have been working with Lee Clark since April or May. We have looked at several options as to what we can do. Robert and I have set down and talked with some engineering people and they can't tell us why this well is dirty. Video scope of the casing itself and the casing is intact. At this point in time the long term solution would be getting hooked to city water. The short term solution is we need potable water for the vendors at the fair. There are five companies in North Carolina that bring in potable water. The company that contacted me back was Davis Water Service. I do not believe we will go over 6000 gallons.

Martha Hicks questioned if the horse shows that were being held at Heritage Park could have caused contamination of the well. Mr. Moody answered that there were two septic tanks closer to the well head than the horses were. Ms. Hicks stated that it had been brought to her attention that where the lawnmower races were there was water standing in a big puddle.

Glenn Johnson questioned if any other treatment could be used to purify the well. Mr. Moody said that the well has been treated and shocked five times.

Mr. Wiseman said that he and Jerry had met with McGill and Associates to address any potential funding from grant sources. The obvious place is there would be money available thru a critical need but there are strict budget constraints and issues coming and going with the NC Rural Center.

Chairman Poteat said so the bottom line is the fair begins September 10th and without potable water there cannot be a fair. In my opinion, I feel we cannot suddenly stop the fair. I would recommend that we spend up to \$4000 for an adequate water supply for the fair.

Reo Griffith asked if the fair could pay the \$4000 back. Ms. Poore stated that the terms would have to be set and there is not time to accomplish that. Chairman Poteat said the fair board if they desired could pay this back. Ms. Poore said that this could be considered in the budget process. Ms. Forbes stated that she did not want to put them in the position that they were in this year with not having the money to get up and going.

Motion by Phyllis Forbes and second by Reo Griffith to approve a budget amendment in the amount of \$4000 to allow water to be utilized by the fair board for the Avery County Fair beginning September 10, 2013. Motion unanimously approved.

Hwy 194

Mr. Wiseman reported that the intent is to work 24 hours a day 7 days a week and have the road completed by the first of November. The solid waste director and I have discussed about the impact that it would have on the solid waste budget as it relates to fuel if that closure drags out to 6 months or a year. This is a budget buster for solid waste. An hour is added to a trip because of the road closure. We are getting estimates on getting a used tank and pump to keep the trucks from having to go around if the road is closed longer than anticipated.

Relocation of the Economic Development Office

Mr. Wiseman stated that there needs to be another office for finance and we took into consideration in this year's budget the allocation for another position. I have looked at three possibilities and I am sorry that I have not discussed this with the VA officer. One of the options was to move the VA office to the senior center and there is no way to make it fit. I talked with David Charles Vance about potentially considering combining space with the fire department coordinator. No decision has been made by the fire commission where Charlie will be located. David Charles needs to be centrally located. Now that the board has decided to move ahead with the project at Banner Elk, another option is to relocate the ED Office in that complex. This would free up the available space we need. Since we are going to move forward with this we need to pull out the stops and get on with the program, we need a physical presence in there. We need lights on and traffic coming and going and need some activity in that building. There would be some cost involved.

Reo Griffith stated that with the old Banner Elk School being declared back in January 2012 an economic development project by the Board of Commissioners any money spent on this facility should be approved through a public hearing to guarantee compliance with NC law. This would apply to any expenses related to the relocation of a county office. If any repairs or improvements have to be made then the county must hold a public hearing before any monies can be expended. The School of Government recommends hearing on all expenses related to economic development projects. In discussing whether a public hearing is needed for mowing an industrial park, the School of Government states in these cases where no bright line rule has been articulated in the statutes or case law, many local governments take a conservative approach and err on the side of holding a public hearing, however, other local governments reject the conservative approach and seek to make distinctions that allow them to avoid a public hearing for upkeep and maintenance expenditures. The latter governments should exercise caution because what we know is that expenditures related to property that becomes part of an incentive transaction will be evaluated in light of the public purpose analysis of Meridy which emphasizes the importance of strict procedural requirements such as public hearings. A court would likely evaluate any distinctions used to avoid a public hearing with a critical eye taking into account the overarching public purpose of the expenditures and public interest in remaining informed about economic development procedures. Tyler Mulligan posted this on June 18, 2013 and this was concerning the mowing or any expenditures of economic development with a county.

Chairman Poteat stated that Mr. Griffith is alluding to the fact that a public hearing would be in order for this. Ms. Poore advised she was not sure about that because the space will be used for county office space and not for the incubator per se. I will be glad to research that issue and then discuss with the

county manager. The conservative thing is to always have a public hearing but I am not sure that would be required in this case.

Glenn Johnson questioned if Mr. Griffith was referring to GS 158-7.1. I can give you a quote from Tyler Mulligan from the economic development class that we went to in Morganton. I applied for a scholarship to go to this and was granted the scholarship. This is a direct quote from Mr. Tyler Mulligan to Bret Gardella and Glenn Johnson: "He said you might ask under this statute what can we not do? He said the statute was so broad you could do almost anything" and that was a direct quote from Tyler Mulligan. This statute states may, can and so on. By a vote of this Board, according to Tyler Mulligan, we can do almost anything that we want to.

Mr. Johnson said if we are going to move forward with this project let us go forward. We need someone over there a lot of the time. If this thing goes well it may become too much for Mr. Gardella but for now he is the best choice for overseeing the property. We have a goal of September 3 for opening this project up.

Mr. Griffith said he was not disagreeing with Mr. Johnson but I am saying you are saying you are quoting Tyler Mulligan; I am quoting him too. We claim to be a conservative county, so I say we take the conservative approach.

Ms. Forbes said that what Mr. Griffith was reading says recommends not requires.

Mr. Griffith said you do not have to go by that; it is what it is.

Chairman Poteat stated that we need to research this as a viable alternative for space in this building. Ms. Poor, I would ask that you research about a public hearing. If Ms. Poore finds no fault in this circumstance I think it would be the most correct thing we could do.

Motion by Glenn Johnson and second by Phyllis Forbes that Bret Gardella's office space be moved to the incubator to make more space available in the Administrative Building and the motion based on the caveat that the county attorney researches this.

VOTE: Motion passes 4 to 1. FOR: Kenny Poteat, Glenn Johnson, Phyllis Forbes, Martha Hicks AGAINST: Reo Griffith

Finance Officer Report – Tim Greene

The Jail Addition and Renovation Project Fund can be closed with the remaining monies transferred to the Capital Reserve Fund and to the General Fund. \$42,000 will be transferred to the Jail Department in order to purchase a transport van.

Motion by Martha Hicks and second by Phyllis Forbes to approve the budget amendment of \$5,203,360.00 with a credit of \$2,112,293 to General Construction (486600.4004); \$1,350.00 to Architect/Engineering Fee (486600.4005); \$17,831.00 to Permits, Insurance Survey (486600.4006); \$84,576.00 to Furniture (486600.4007); \$385,000.00 to Site Prep (486600.4008) \$42,000.00 to Transfer To/From General Fund (103903.0000); \$2,559,680.00 to Transfer from Other Funds (463990.0000) and a debit of \$2,559,680.00 to Transfer to Capital Reserve Fund(486600.8541); \$42,000.00 to General Fund (486600.8540) \$42,000 to Capital Outlay (105200.7400) and \$2,559,680.00 to Fund Balance Appropriated. Motion unanimously approved.

County Attorney Report – Michaelle Poore **Banner Elk Conditional Use Permit**

Ms. Poore advised that the Board of Adjustments issues an order of findings and facts and as part of that the county is agreeing to abide by those terms. The county is agreeing to provide parking spaces for 10 bicycles. There was a proposed parking plan that was submitted with the application which is new information for the Board. The County is agreeing to follow all of the terms and the application and leave in place a bronze plaque on the building. We have had discussion in the past about any of the tenants that come into that site will need to enter into an agreement with the county and obtain approval by the Town of Banner Elk. I would like to look at the part where the county is agreeing to a proposed parking plan with islands, landscaping and flagging. This might have been confusing because in the application itself the first page is a transmittal letter and that was filled out by Mr. Shipley. After that is the application itself and there were a couple of other sheets and then the next sheet is designated as S1 for the existing site and behind that in the packet there is a sheet designated as S2. The S2 is the proposed site which is the creation of parking spaces and islands with landscaping. The county is agreeing to put this plan into

place within two years. Banner Elk is anticipating that the county follows the sheet S2 plan. The S2 plan is what the county would be agreeing to put in place within 2 years.

Mr. Griffith questioned if there was an approximation of the cost of the parking and landscaping. There is 70 + parking spaces. Mr. Gardella said that it was put in the budget but was taken out. I project \$50,000 for the project and \$20,000 for the landscaping. Banner Elk has graciously allowed us two years to do this.

Chairman Poteat said he had conversations with commissioners that said do not sign this document and he had conversations that asked him to sign this document immediately. He said that he took the neutral route and decided that once it was previewed by the county attorney and only after hearing from her would he consider signing anything.

Motion by Martha Hicks and second by Glenn Johnson to authorize the Chairman to sign the Conditional Use Permit for Banner Elk.

VOTE: Motion passes 4 to 1. FOR: Kenny Poteat, Glenn Johnson, Phyllis Forbes; Martha Hicks AGAINST: Reo Griffith.

Grandfather Mountain Exemption

Ms. Poore stated that this was in the appeal process at this time point in time. The School of Government did a blog post about this and maybe that was per the legislature or governor to address this issue because I think it is pretty clear that originally the legislature's intentions was for this to be used for schools and that type of thing.

New River

New River matter is still pending.

Property Tax Commission

Included in the letter is a list of the matters pending before the Property Tax Commission.

Tax Collections

There are 8 pending tax foreclosures.

ERC Lease

This lease is included in the packet and requires action today. This is a proposed lease agreement with ERC. Tim Greene has reviewed this. Bret Gardella has reviewed this. ERC has run fiber throughout the county. We have all of the county buildings tied with fiber. The one missing piece was from here to the Recreation department. ERC came in during the middle mile and they ran it to the Recreation Department. We are able to lease the line for \$300 a year. Furthermore, Bret and Ed Womack worked on a deal with ERC where we would allow ERC to have some equipment in the radio room at the courthouse and in return we would get internet service.

Motion by Phyllis Forbes and second by Martha Hicks to authorize the chairman to sign the agreement between Avery County and ERC. Motion unanimously approved.

Vance Matter – Hawshaw Tower

Ms. Poore had spoken with the County Manager and the Vances had spoken with him. Mr. Wiseman stated that he had tried to contact NC Wireless and he had spoken with Ms. Vance also. All the towers have been identified as county related except for one. This matter is still pending.

Approval of Minutes

Motion by Glenn Johnson and second by Phyllis Forbes to approve the Minutes for the Budget Workshops for May 13, 2013; May 17, 2013; May 20, 2013; May 28, 2013 with the correction noted.

Martha Hicks stated that there needed to be a correction on the May 28, 2013 budget workshop minutes where it was stated that I said \$15,000,000 and it should be \$50,000,000.

Motion unanimously approved.

Agenda Consent Items

Mr. Griffith stated that he wanted to say "time out" on transferring the fire department money until we have the fire department meeting tomorrow night. Mr. Greene said that in the budget process when the budget is given to me from the Fire Commission there are some items as far as individual fire departments that run through the fire commission. The contingencies and grants go through the fire

commission and they hold the monies until the individual fire departments get the money. It can stay where it is at but it is at the end of the budget and if I don't do that the fire commission looks like they are over budget . It is not taking any monies away from any individual fire departments.

Agenda Consent Items Adopted by Consent with one notation concerning transfer of funds to fire departments awaiting the meeting tomorrow evening.

Upcoming Meetings

There will be a Board of County Commissioners, Fire Commission and Fire Association Meeting August 6, 2013 at 6:00 p.m.

Adjourn

**Motion by Martha Hicks and second by Glenn Johnson to adjourn this meeting at 7:10 p.m.
Motion unanimously approved.**

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

ATTEST: _____
Cindy Turbyfill, Clerk