

**STATE OF NORTH CAROLINA
COUNTY OF AVERY**

The Avery County Board of Commissioners met in Regular Session on February 7, 2011 at 3:30 p.m. in the Commissioners Board Room, Avery County Administrative Complex, 175 Linville Street, Newland, NC.

Members Present: Kenny Poteat, Chairman; Phyllis Forbes, Vice-Chair; Scott Heath; Martha Hicks; Glenn Johnson

Members Absent: None

Call To Order

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

Public Comments

Junior Sluder, President of the Avery County Fire Association, questioned about the problem with the First Responders being called out on certain calls to help Avery Emergency Medical Services. Robert Wiseman, County Manager, stated that sometimes there is an occasion that there may be a very large person that the two EMS employees are unable to lift and they have to depend on the first responders to help. We can rectify that very quickly by not paging first responders and only paging EMS. If the occasion arises that the EMS supervisor or other members are unable to help, then and only then would the fire departments be paged out. Mr. Sluder stated that the first responders are there to help.

Scott Heath stated that he was not at the last meeting and three of the commissioners did a mid-year budget amendment from a request from the Sheriff for a K-9 unit for \$8000.00. He said that mid-year budget amendments coming out of the general fund has become a big deal to him. Mr. Heath stated that he was against a mid-year budget amendment. He said that he is for funding through the budgetary process. Mr. Heath advised that he had an alternative plan to the amendment that would keep us in the budgetary round and would not come out of the fund balance. He said that fund balance is for extreme emergencies. Mr. Heath stated that the sheriff could raise his private funds and when the time comes to pay the \$8000.00 since this would be a capital item issue a line item change could come out of the capital budget and if he does not have money in that line item then defer whatever is left to next year's capital budget. This would stay within the budgetary realm. Mr. Heath stated that he would like to make a motion to revisit the motion and then make a motion to allow the sheriff to obtain his private funds and then whatever is left come out of his capital budget either this year or next year. Martha Hicks said that the reason this budget amendment was passed was because there was a cost savings of \$2000 if the K-9 was purchased now instead of waiting. Ms. Hicks suggested that maybe the Board of Education could help with some of the expenses with the K-9 unit that stays at the Avery County High School.

Motion by Scott Heath and second by Phyllis Forbes to reconsider the motion from the January 3, 2011 meeting pertaining to the appropriation of funds for the K-9 for the Avery County Sheriff's Office.

Scott Heath said that he would like the opportunity to discuss this situation. He said that this is not a cost savings to the fund balance but to the Sheriff's budget. Mr. Johnson stated that he had no problem with reconsidering the motion.

VOTE: Unanimously approved.

Motion by Scott Heath and second by Phyllis Forbes to allow an addition to the agenda 3.4A4 concerning K-9 dog. Motion unanimous.

Board Appointments

Avery County Long Term Care Community Advisory Committee

Mr. Wiseman stated that the term of William Clapp to the Avery County Long Term Care Community Advisory Committee will expire effective February 11, 2011. He has indicated his desire to be reappointed for an additional three year term.

Motion by Phyllis Forbes and second by Martha Hicks to reappoint Mr. William Clapp to the Avery County Long Term Care Community Advisory Committee for a three year term. Motion unanimously approved.

Tax Collector Report – Phillip Barrier

Phillip Barrier, Tax Assessor, gave the monthly Tax Collector's Report in the absence of Mary Daniels Calloway. The total collection for the month of January 2011 is \$4,466,392.10.

Motion by Martha Hicks and second by Phyllis Forbes to approve the Tax Collectors Report for the month of January 2011 as presented. Motion unanimously approved.

Tax Assessor Report – Phillip Barrier

Real and Personal Releases

The Real and Personal Releases for the month of January 2011 are County Tax Release \$158.46; Fire Tax Release \$18.56 for a total of \$177.02.

Motion by Martha Hicks second by Glenn Johnson to approve the Real and Personal Releases for the month of January 2011 as presented. Motion unanimously approved.

Real and Personal Refunds

The Real and Personal Refunds for the month of January 2011 are County Tax Refund \$395.67 and Fire Tax Refund of \$47.96.

Motion by Phyllis Forbes and second by Martha Hicks to approve the Real and Personal Refunds for the month of January 2011 as presented. Motion unanimously approved.

Motor Vehicle Releases

There are three motor vehicle releases for the month of January. County Tax Release is \$16.90; Fire Tax Release is \$2.05; City Tax Release is \$5.84.

Motion by Glenn Johnson and second by Scott Heath to approve the Motor Vehicle Releases for the month of January 2011 as presented. Motion unanimously approved.

Sales Statistics

There were 26 sales for the month of January.

Resolution to Appoint Special Board of Equalization and Review

Mr. Barrier stated that the Board would need to approve a resolution to appoint a special Board of Equalization and Review. This is an annual event required by the Machinery Act. As soon as this resolution is adopted, the Tax Assessor will begin to advertise for applicants for the Board.

Motion by Martha Hicks and second by Phyllis Forbes to adopt the Resolution to Appoint a Special Board of Equalization and Review. Motion unanimously approved.

Annual Audit Report – Sharon Gillespie

Sharon Gillespie with Miller, Young, and Gillespie, presented the audit report for Avery County. Ms. Gillespie stated that this was a clean audit report with no problems with the finances of Avery County. Avery County has a 4.9 million fund balance or a 20 percent fund balance which is a healthy fund balance. Overall there were no problem areas. Ms. Gillespie explained several points of the audit. The tax collection rate percentage is 95.57%, which is a combination of the ad valorem taxes and motor vehicle taxes. This is down from the prior year. To qualify as low risk, a county cannot have any significant audit findings within the past two years and Avery County has not had any significant audit findings.

Motion by Scott Heath and second by Martha Hicks to approve the Auditor's Report for Avery County for the fiscal year ending June 30, 2010. Motion unanimously approved.

County Manager Report – Robert Wiseman

Broadband

Robert Wiseman, County Manager, stated that a few months ago the Board by motion signed a letter committing \$13,500 as Avery County's part of an application for matching funds to do a broadband study. That was predicated on the fact that we thought that Ashe County and Watauga County would participate in a joint application. Since that point in time Ashe County does not want to participate as well as Watauga County. After lengthy conversation with the High Country Council of Governments and Ms. Olivia Collier with the Appalachian Regional Commission, we have been encouraged to submit this application. What is requested of the Board today is that by motion the Board rescinds the previous motion and adopts a new motion.

Motion by Glenn Johnson and second by Scott Heath to rescind any previous action of this Board concerning approaching the Appalachian Regional Commission as an applicant for possible matching funding for Broadband Internet for Avery County. Motion unanimously approved.

Motion by Phyllis Forbes and second by Scott Heath for Avery County to commit \$13,500 in matching funds provided that the Appalachian Regional Commission awards matching funds to conduct a telecommunications study which will provide detailed information on telecommunications infrastructure in Avery County. Motion unanimously approved.

Glenn Johnson stated that there was in the agenda consent items information concerning Broadband regional meetings. The E-NC Authority Regional Broadband is going to have meetings across the state and the closest one would be on February 14, 2011 in Asheville. Mr. Johnson stated that the County Manager and one or two commissioners needed to attend one of these meetings.

Letter of Intent for CDBG Funds

Mr. Wiseman stated that there was a letter of intent expressing the intent to apply for tax credit housing development funding. This is just putting the Division of Community Assistance on advice that we intend to apply for grant funds for infrastructure planning. This infrastructure grant which would be 100% funded is to provide sidewalks and infrastructure, water, sewer, electricity, etc for the proposed project on the old Greene and Taylor Nursery property. This would be elderly housing. There will be 38 units in the structure; 28 one bedroom and 10 two bedroom with four being handicapped accessible. Building cost would be 4.68 million. This would not create any long term employment. By signing the letter, this let everyone know that Avery County intends to apply for the CDBG funds.

Motion by Glenn Johnson and second by Martha Hicks to submit the letter of intent to apply to the state requesting visit with Valerie Moore, Program Development Section, Division of Community Assistance, (DCA), NC Department of Commerce and allow the chairman to sign said document. Motion unanimously approved.

Consensus of the Board to set a Public Hearing February 21, 2011 at 3:30 p.m.

EDC Position

Mr. Wiseman advised that there had been discussion in regards to making the part-time EDC position a full time position. He said if that is the Board's decision that this position needed to be advertised now so that this person could be hired early enough prior to July 1, 2011 to have a part in the budget preparation for that department. Staff has been reduced in the Register of Deeds office and also we would have the funds currently budgeted for the part-time position so it would be an intradepartmental transfer and would not require a mid-year budget amendment.

Motion by Phyllis Forbes and second by Glenn Johnson to instruct the County Manager to proceed with the hiring of a full time EDC position for Avery County.

Scott Heath stated that Avery County has been blessed with never really having to promote the County but now with the economic conditions we need to be proactive and promote the County more and let people know what Avery County has.

Glenn Johnson commented that he had been hearing about the Boone/Blowing Rock area but all of the attractions that people were coming to were actually in Avery County and he wanted someone to help promote Avery County and its attractions.

Martha Hicks said she had been wanting someone to help with finding grants and writing grants and that she was pleased with proceeding with hiring the full time EDC position.

Phyllis Forbes stated that she was pleased with this Board being interested in doing this and she had advocated for a long time for a grant writer and a full time EDC position.

Motion unanimously approved.

Banner Elk School Property

Mr. Wiseman reported that there were three appraisals on the current Banner Elk School Property. There have been numerous discussions with Rick Owen, Town Manager of Banner Elk. Mr. Wiseman stated that out of professional courtesy and good business, the Board needs to make a decision on the minimum price that the Board would consider for purchase of that 5 acres of property so that they can decide if it is in the realm of their feasibility.

By Consensus of the Board, agenda discussion at the February 21, 2011 meeting concerning appraisal and/or disposition of the current Banner Elk School Property.

Security Issues at the Courthouse

Mr. Wiseman advised that last week the Chief District Superior Court Judge Phil Ginn, the Sheriff and the County Manager had a lengthy discussion and identified some issues that they felt were security measures that were lacking in the courthouse. He said that they will be coming back with some recommendations to the Board regarding these security issues. This is not an isolated situation with Avery County; this is for the five counties in his judicial district.

First Responders

Mr. Wiseman stated that with respect to providing free EMS transportation for first responders he had retraced the step. Legal counsel's opinion was that it would jeopardize the Medicare revenue that the County receives.

Subdivision Ordinance

Mr. Wiseman reported that after the Subdivision Ordinance had been forwarded from the planning board to legal counsel and then to Mr. Glenn Rhodes at the Division of Community Assistance, Mr. Rhodes passed away and the ordinance stopped there. Loretta Smith, Planning Department, got the Subdivision Ordinance back up and going. Today the planning board is providing the Board a copy of the proposed changes to the Subdivision Ordinance and is asking to schedule a public hearing.

By Consensus of the Board, a Public Hearing for the Subdivision Ordinance is scheduled for February 21, 2011 at 4:00 p.m.

Joe Shoupe, Avery County Forest Ranger, stated that on behalf of the Forestry Service and the Avery County Fire Association that these organizations highly recommend the proposed changes to the Subdivision Ordinance for the public safety and the best interest of everyone involved.

Recess

Chairman Poteat called for a brief recess.

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

Budget Amendment for Offsite Landfill Gas Mitigation – Buddy Norris

Mr. Wiseman stated that there had been discussion before about the concentrations of Methane Gas at the closed out landfill. This will require a budget amendment. Buddy Norris, Director of Avery County Solid Waste, advised that Avery County had received a violation last year and as a result of the violation the monitoring plan had to be modified to include the installation of probes on the property line. Once this was done we did the first round of official monitoring and at that time discovered two locations of extreme amounts of Methane on the property line. That information was brought to the Board and it was decided that it would require a study which was conducted and completed to find out the extent of the damage. It was determined that the gases had migrated as far as 500 feet beyond our property line all of which was reported to the department in Asheville. Now the two areas needed to be mitigated with the installing of 5 monitoring probes. The cap on the landfill caught on fire and this scorched a couple of the wells and these need to be repaired and placed back in service. Monthly monitoring will be required because of the problems. The budget amendment is based on the numbers from the engineering group. There were some numbers presented to the Board which were worse case scenarios because of the involvement of the mitigation. Those numbers were in the \$80,000 range. Based on the fact that we have reported these problems, we need to go ahead with this. Mr. Norris stated the budget amendment requested would be in the amount of \$24,070.00. Tim Greene stated that he would address the budget amendment in the Finance Officer's Report and clarify the budget amendment.

Banner Elk School Update – Jeff Hurd

Jeff Hurd, MB Kahn, stated that the Banner Elk School project was going extremely well and there has been work going on almost every day during the months of December and January. Mr. Hurd reported regarding the construction status of the Banner Elk School project. February 16 and 17 there will be vendors in conference to meet in regard to the RFP's issued for furniture, fixtures and equipment for the school.

Scott Heath advised that he was in Hickory about a week ago and a man came up to him asking if he was from Avery County because of the sign on Mr. Heath's truck and said he was connected with the construction of the new Banner Elk School. He said he did not like MB Kahn and there was no one on site. He reiterated that a couple of times. Mr. Heath stated that he was looking for assurance that there was someone on site. Mr. Hurd stated that he could assure everyone that Banner Elk is fully staffed by MB Kahn. Larry Robbins is on site for field operations.

Jail Update – Jeff Hurd

Mr. Hurd reported that due to the weather there is not a lot of progress on the jail since December. The second floor slab is scheduled to be poured during the week of 2/7/2011 but we have to have 40 degrees and rising and maintain at least 12 hours past the pour time. This contract is a demand baseline date; the contractor had to allow anticipated weather days. There were 28 actual lost days. Vannoy has requested in writing a total request of 35 days.

Budget Amendment – K-9 for Sheriff's Department

Chairman Poteat stated that earlier in the meeting there was a motion to reconsider the Budget Amendment regarding the K-9 for the Sheriff's Department. Currently we have a situation where three Board members voted to make a budget amendment of \$8000 to enable the Sheriff to purchase a new K-9 dog and to the best of his ability to raise as much money as possible to replace the \$8000. Sheriff Frye stated that he had \$1500 in donations and there are several companies willing to donate. Chairman Poteat said that there was a lengthy discussion and it was alluded to about mid-year budget amendments in that particular meeting.

Scott Heath advised that his issue is not the K-9 unit but mid-year budget amendments. Taxpayers in Avery County do not have a mid-year budget amendment source to go to so if they have a major problem with an expense or drop in income they do not have someone to go to and that is who is paying the bill and that is who is paying the money in for this. The mid-year budget amendments go against what everyone has to do. Mr. Heath said that when money is taken out of the budgetary realm the money is gone. If you put the money in the budgetary process with capital and he can raise more money that saves his capital budget. This is about all departments and all nonprofits and they have to be accountable on how they spend their money. We need to work out options instead of keep going to fund balance. Mr. Heath stated that this recommendation was to keep this request within the budgetary process by the sheriff raising as much money as he can and then taking the remaining out of capital. If the Sheriff does not have any capital, then address this issue in the next budget.

Chairman Poteat stated that it was his understanding that someone would need to make a motion to rescind the previously adopted motion which would include not adopting a budget amendment for a K-9.

Motion by Scott Heath to rescind the previous appropriation from fund balance for the Sheriff's request for the K-9 and the motion would include to allow the Sheriff to raise the funds privately and whatever funds were not raised these could be taken out of his capital budget and if there is a shortfall there then take it from the top of the next budget year capital budget.

Motion failed due to the lack of a second.

Finance Officer Report – Tim Greene

Tim Greene, Finance Officer, stated that it is the time of the year that the Board needs to appoint the auditor for the upcoming year and my request is that the Board approve Young, Miller & Gillespie, P.A. to audit the financial statements for the County of Avery as of and for the year ending June 30, 2011. The audit will be in July 2011 and their report will be issued no later than October 31, 2011 at a price not to exceed \$31,900. This represents no increase from the prior fiscal year. The price also includes the Fire Commission Audit.

Motion by Martha Hicks and second by Scott Heath to approve Young, Miller, and Gillespie to audit the financial statements for Avery County for the year ending June 30, 2011. Motion unanimously approved.

Budget Amendment #

The Landfill Expansion Project Fund can be closed with the remaining monies transferred to the General Fund. Funds will be used for the closure of Landfill Phases I and II. Mr. Greene stated that when the project fund was set up he inappropriately put in \$300,000 in the fund for closure of some of these cells that should have not been included in that fund. We will take the money that we are going to use in the project fund to close the cells and put in the General Fund to close the cells. Mr. Greene explained that the first two line items of the budget amendment is taking the money out of the project fund and other line items is where it is going to be distributed in the General Fund. The Contractor Service Engineering line item and landfill line item is going to be used for partial closure of Phase I and II and will take place by June 30, 2011. This will leave an additional \$88,000 but it is recommended that this is available for appropriations. The \$88,000 was originally set in the project fund to close Phase III and that is not going to happen until the 2012/2013 budget year. The \$24,070 can be transferred out of the \$88,000. These monies have been previously budgeted in the landfill expansion project.

Motion by Scott Heath and second by Phyllis Forbes to approve a Budget Amendment of \$320,598 as a debit to Transfer to General Fund (476600.8540) and a credit of \$320,598 to Fund Balance- Appropriated (473990.0000). Debit of \$50,825 to Cont. Svc-Engineering (105800.5400); Debit of \$181,500.00 to Landfill (105800.7455) and a Debit of \$88,273.00 to Available for Appropriations (107000.6000) and a Credit of \$320,598.00 to Transfer to General Fund (103903.0000). Motion unanimously approved.

Budget Amendment #

The Transportation Department sold two vans. The State requires the proceeds to be used for the Transportation program since State funds were used to purchase the vehicles.

Motion by Glenn Johnson and second by Martha Hicks to approve a Budget Amendment of \$4152.00 with a Debit of \$4,152.00 to Office Supplies (106300.3300) and a Credit of \$4,152.00 to Proceeds—Sale of Fixed Assets (103505.0000) for the Transportation Department. 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.

MAPS Presentation – Becky Veazey

Becky Veazey, MAPS Group, presented a presentation on the Classification and Salary Pay Plan.

County Attorney Report – Michaelle Poore

Michaelle Poore reported that she would be attending a Property Tax Commission hearing on Wednesday in Raleigh with Phillip Barrier, Tax Assessor.

Approval of Minutes

Motion by Glenn Johnson and second by Martha Hicks to approve the minutes of December 14, 2010 Joint meeting with the Board of Education; January 3, 2011 Regular Meeting; January 3, 2011 Closed Session. Motion unanimously approved.

Agenda Consent Items

Chairman Poteat questioned Buddy Norris, Director of Solid Waste, if Avery County currently accepts waste from other counties. Mr. Norris answered that since the opening of the new cell that Avery County has been accepting C&D waste. Mr. Norris stated that there was a motion in a meeting to do this and that this was to generate revenue. Glenn Johnson questioned if we were thinking about accepting household garbage that is not going into our landfill but ship to Bristol, Virginia. Mr. Norris stated this is what is being recommended after further research. Chairman Poteat stated before an approval would be given there would need to be much more research on this issue.

Upcoming Meetings

The next meeting of the Board will be a Special Meeting on February 21, 2011 at 3:30 p.m.

Adjourn

Motion by Scott Heath and second by Glenn Johnson to adjourn this meeting at 8:15 p.m. Motion unanimously approved.

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

ATTEST: _____
Cindy Turbyfill, Clerk