

**STATE OF NORTH CAROLINA
COUNTY OF AVERY**

The Avery County Board of Commissioners met in Regular Session on Monday, January 3, 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; Martha Hicks; Glenn Johnson

Members Absent: Phyllis Forbes (sick); Scott Heath (vacation)

Call To Order

Chairman Poteat called the meeting to order at 3:30 p.m.

Glenn Johnson led prayer.

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

Public Comments

Chairman Poteat recognized Senator-elect Ralph Hise. Mr. Hise stated that he was excited about the opportunity to serve. He said the citizens in Avery County will be represented in Raleigh. Mr. Hise stated that he would like to let the citizens know that this office is open and he would welcome hearing from the citizens.

Board Appointments

New River Service Authority Board

Robert Wiseman, County Manager, stated that there were two appointments for the New River Service Authority Board. The New River Service Authority has recommended Mr. Sam Ray to be reappointed for a four year term and Mr. Kenny Poteat to be reappointed as the Avery County Commissioner member.

Motion by Martha Hicks and second by Glenn Johnson to reappoint Mr. Sam Ray for a four year term and Mr. Kenny Poteat as the Avery County Commissioner member. Motion unanimously approved with those in attendance. (3-0)

Voting Delegate – Legislative Goals Conference

Mr. Wiseman advised that the Board needed to appoint a Commissioner as an official voting delegate for the Legislative Goals Conference. Chairman Poteat stated that he had served on the committee for several years and that he would be pleased to be the voting delegate this year.

Motion by Glenn Johnson and second by Martha Hicks to appoint Mr. Kenny Poteat as the Legislative Goals Voting Delegate for 2011. Motion unanimously approved with those in attendance (3-0).

Broadband – Sara Yackey

Mr. Wiseman explained that through the High Country Council of Governments, Avery County and Watauga County are working together toward getting a 50% matching grant as a multicounty application for use in developing RFP's for an asset inventory. "Watauga County Board of Commissioners does not meet until tomorrow and I feel cautiously confident that they will agree to a letter of commitment for half of the proposal which is somewhere around \$30,000" said Mr. Wiseman. The grant to the Appalachian Regional Commission would be prepared by and submitted by the High Country Council of Governments. The action that would be necessary for Avery and Watauga would be a letter of commitment for 50% of the project study if it is approved and if it not approved there is no allocation of funds necessary for that particular project.

Sara Yackey stated that when e-Avery was formed a partial asset inventory was done. She said that she had spoken with a lady about a year ago from ARC in regards to expanding the partial asset inventory to determine feasibility to improve Broadband in the county.

Joe Freddoso, President of MCNC, explained that MCNC was established in 1980 as a private non-profit formed for economic development and to establish a video network that would connect the university systems and later to develop a high speed fiber network that would connect the university systems as well. Mr. Freddoso spoke about the funds through the American Recovery and Reinvestment Act that will provide 2500 miles of middle mile fiber with 4000 Community Anchor Institutions.

Hunter Goosman, representative with ERC Broadband, presented an overview of ERC. ERC is a 501(c)(3) nonprofit broadband network/data center which focuses on providing infrastructure, information and competitive broadband services. The route for the "middle mile" is being engineered right now. Mr. Goosman stated that they may need some help from the Board for right-of-ways.

Mr. Freddoso stated there are several counties that have gone through the process of an engineering study and there are models from counties such as Edgecombe, Surry, and Rockingham. He also said that a good study would "flush out" all the questions regarding the geographical difficulties and other difficulties in this county.

Tax Collectors Report

There was no report for the month of December. This report will be tabled until the February meeting.

Tax Assessors Report—Phillip Barrier

Real and Personal Refunds

Mr. Barrier reported that the Real and Personal Refunds for December 2010 were County Tax Refund \$73.26; Fire Tax Refund \$8.88 for a total tax refund of \$82.14.

Motion by Martha Hicks and second by Glenn Johnson to approve the Real and Personal Refunds for December 2010 as presented. Motion unanimously approved with those in attendance (3-0).

State Appealed Releases

The 2010 State Appealed Releases are County Tax Release of \$1,166.88 and Fire Tax Release of \$141.44 for a total tax release of \$1,308.32.

Motion by Glenn Johnson and second by Martha Hicks to approve the 2010 State Appealed Releases as presented. Motion unanimously approved with those in attendance (3-0).

Sales Statistics

Mr. Barrier stated that Avery County was averaging 7 sales a week. We are only averaging 1 foreclosure a week. The total sales amount and the total tax amount show that there is a 97.7 sales ratio.

Notice of Hearing before the Property Tax Commission

Mr. Barrier stated that there will be a hearing before the Property Tax Commission on January 12, 2011. Mr. Barrier and Michaelle Poore, County Attorney, will attend the hearing.

Tax Listing Notice for 2011

Mr. Barrier advised that tax listing for 2011 is January 1, 2011 through January 31, 2011. He said that the tax listing notice would need to be sent back if there is a change in the real property or if there is personal property listed. There was discussion regarding the tax relief programs.

YMCA – Jim Richardson

Mr. Jim Richardson thanked the Board for their funding of the YMCA. Mr. Richardson explained that the YMCA was chartered in 2005 and opened in 2007. There are 3500 members and four full time employees. One of the top priorities for 2011 is to make Avery County Citizens aware of the health and wellness benefits of the Williams YMCA. A report was given that reflected the free access and subsidies to the YMCA of Avery County for the citizens of Avery County.

County Manager Updates – Robert Wiseman

Banner Elk School Appraisal

Robert Wiseman, County Manager, stated that he had received the appraisal for the existing Banner Elk School. He said that the Board needed to go into executive session regarding this appraisal.

EMS and First responders

Mr. Wiseman stated that he had investigated, as to the Board's direction, the legality of a noncertified person, someone other than a paramedic or EMT, driving an ambulance. It is my understanding that anyone who has a valid NC driver's license can drive an EMS vehicle. That would certainly be an exception and not the rule. There are at least 2 certified paramedics or EMT's on each ambulance. If the situation is such that the patient requires both of the paramedics or EMT's care, then someone else could drive that ambulance. On occasion a first responder or volunteer fireman has driven an ambulance.

Mr. Wiseman stated that as for preferential treatment for first responders when it comes to medical transport by EMS, the answer would be "no" and he thought that legal counsel would agree with that.

Subdivision Ordinance

Mr. Wiseman stated that another issue that had been raised for him to look into was the recommendations of the fire association with respect to the revisions of the subdivision ordinance. He said that he had spoken with several people regarding this. Some time ago the fire association made several recommendations to the planning board for changes or additions to the subdivision ordinance. At that point in time, the planning board looked at the recommendations of the fire association. There was a lot of discussion regarding the subdivision ordinance versus the fire ordinance. The planning board went through those issues and recommendations and the draft went to legal counsel for review and then the draft went to the Division of Community Assistance in Asheville to Mr. Glenn Rhodes. Mr. Rhodes was in the process of getting back with Avery County but unfortunately he passed away. He had already reviewed the changes that had been reviewed by legal counsel and by the planning board. The Avery County Ordinance Administrator has the changes recommended by the Community Assistance and this month there will be a special meeting of the planning board scheduled to review the recommendations that Mr. Glenn Rhodes had made. The planning board will review those item by item and at the next meeting of the Board of

Commissioners they will have a draft that is approved by the planning board for consideration. If the Board sees fit to agree with the recommendations that are presented, a public hearing on those changes will be necessary which could be at the March meeting.

Yellow Mountain Enterprises

Mr. Wiseman advised that at the last meeting there was some discussion about funding for Yellow Mountain Enterprises and that he was instructed to look into the feasibility of adding the Yellow Mountain Transportation vans to the county's list of authorized vehicles that access non-tax paid gasoline. After that initial discussion, Ms. Gavenus stated that the new vans were forthcoming and Yellow Mountain had received some substantial funding that they had not anticipated. Given these two factors and the increase in their capabilities, it would appear before we jump into this we need to know if this is a critical issue and what kind of legal implications would be forthcoming to give county gas cards to private individuals that are not employees.

Broadband

Mr. Wiseman stated that there is a need that exists with regards to Broadband but there are also limited resources. Mr. Wiseman said that during conversations with some counterparts, it came to his attention that the Appalachian Regional Commission has monies for engineering services, etc. This started some dialogue between Ashe County EDC and Watauga County EDC and Avery County. There was a meeting and discussion of presenting to ARC a multi-county application which obviously would increase the chances of receiving monies. Over a period of a week or so there was discussion and the County Manager from Ashe County notified us that Ashe County would not be participating because Skyline covers around 90% of Ashe County. Avery County and Watauga County will be piggybacking on this application. Mr. Wiseman stated that the Board, if they approved, needed to sign a letter of commitment for half of the funds if the application is approved and the project is funded. If the application is approved for the ARC matching funds, then Avery County will enter into a contract with whichever engineering firm that is chosen. The issue that is on the table is to go ahead and make the commitment for half of the \$30,000 that we have projected initially and if this is funded then we can apply for an amendment to increase the scope of the project.

Motion by Martha Hicks and second by Glenn Johnson to approve a letter of commitment to allow Avery County to access this possible funding source. Motion unanimously approved with those in attendance (3-0).

Recess

Chairman Poteat called for a 2 minute recess.

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

Avery County Sheriff's Office – Sheriff Kevin Frye

Sheriff Frye explained that in August 2010 during routine training one of the Sheriff's Office canine units became paralyzed. The canine was sent to Winston Salem where the veterinarian advised that there was a better than 50% chance of recovery with surgery and so the call was made to go ahead and do the surgery. The vet bills have been \$5200 and 2 weeks ago the vet let us know that the dog is not going to be able to be a serviceable dog. Tarheel Canine has agreed to sell another canine to us for \$8000 instead of \$10,000 and will include the board for the officer to train. Sheriff Frye stated that he would like a commitment from the Board to be able to buy this canine and that he would solicit as many donations as possible. Mr. Wiseman questioned how long that Tarheel Canine would agree to selling the canine for \$8000. He stated that he could not support any midyear budget amendments unless it was an emergency situation. Sheriff Frye stated that he would make a promise to the Board if the budget amendment is approved he would do everything he could to raise every bit of the money and would work with the newspapers with regards to the fundraising.

Motion by Glenn Johnson and second by Martha Hicks to approve a budget amendment to buy the canine for \$8000. Motion unanimous with those in attendance (3-0).

Commissioner Johnson stated that the Sheriff should do everything to get donations as if the motion for the budget amendment had not been approved.

NC Public School Facility Needs Survey

Mr. Wiseman stated that this document was not presented to the Board at the joint meeting with the Board of Education. On the front page, section II the important part of this document states that this survey does not necessarily constitute endorsement or commitment to fund the facility. This must be signed by the Board of Education chairman and the Board of Commissioners chairman.

Motion by Martha Hicks and second by Glenn Johnson to approve the NC Public School Facility Needs Survey and for the Chairman to sign. Motion unanimously approved with those in attendance. (3-0).

Finance Officer Report – Tim Greene

Tim Greene, Finance Officer, requested a Budget Amendment be approved to move the undesignated Fund Balance in excess of 20% of the total General Fund Expenditures and transfers to other funds at the end of the Fiscal Year 2009-2010 to the Capital Reserve Fund.

Motion by Glenn Johnson and second by Martha Hicks to approve a Budget Amendment requesting the undesignated Fund Balance in excess of 20% of the total General Fund Expenditures and transfers to other

funds at the end of the Fiscal Year 2009-2010 be appropriated to the Capital Reserve Fund with a debit of \$1,908,721.00 to Capital Reserve Fund (107000.6246) and a Credit of \$1,908,721.00 to Fund Balance Appropriated (103990.0000) and a debit of \$1,908,721.00 to Fund Balance Appropriated (463990.0000) and a credit of \$1,908.721.00 transferred from General Fund (463101.0000). Motion unanimously approved with those in attendance (3-0).

County Attorney Report – Michaelle Poore

Ms. Poore updated the Board on two matters involving litigation that the County's insurance carrier handled. The first matter was a lawsuit brought by Ms. Johnson against the school board, Sheriff and other parties. The court dismissed that matter as to the Sheriff so the County is no longer in that lawsuit. There was a second lawsuit involving the Avery Airport Authority and the court has dismissed this lawsuit also.

Closed Session

Motion by Martha Hicks and second by Glenn Johnson to go into Closed Session at 5:30 p.m. regarding Acquisition of Property G.S. 143-318.11 (a)(5) and Personnel G.S. 143-318.11 (a)(6). Invitees will be the Board, County Manager, County Attorney, Clerk and Finance Officer. Motion unanimously approved with those in attendance. (3-0).

Chairman Poteat declared the meeting to be back in Regular Session after closed session at 6:19 p.m. During Closed Session, no vote was taken.

Approval of Minutes

Motion by Martha Hicks and second by Glenn Johnson to approve the minutes for December 6, 2010 Regular Session. Motion unanimously approved with those in attendance (3-0).

Agenda Consent Items

Agenda Consent Items Adopted by Consensus.

Upcoming Meetings

The next Regular meeting will be February 7, 2011.

Adjourn

Motion by Glenn Johnson and second by Martha Hicks to adjourn this meeting at 6:23 p.m. Motion unanimously approved with those in attendance (3-0).

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

ATTEST: _____
Cindy Turbyfill, Clerk