

**STATE OF NORTH CAROLINA
COUNTY OF AVERY**

The Avery County Board of Commissioners met in Regular Session on Monday, March 5, 2012 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 (via telephone); Scott Heath; Martha Hicks; Glenn Johnson

Members Absent: None

Call To Order

Chairman Poteat called the meeting to order at 3:32 p.m.

Martha Hicks led prayer.

Chairman Poteat stated 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.

Public Comment

Buddy Norris, Avery County Solid Waste Director, introduced Eric Foster who is the new assistant solid waste director.

Jean Taylor-Todd questioned if the Register of Deeds fell under the County or State. Mr. Wiseman answered that the Register of Deeds falls under the county personnel policy but that office is elected by the people of Avery County and subject to the statutory requirements and regulations of the state of North Carolina as are all Register of Deeds across the state. Ms. Taylor-Todd stated it was her understanding that the job of the Register of Deeds is to protect the chain of title and they have fiduciary responsibility to collect recording fees. Michaelle Poore, County Attorney, said there were some statutory exemptions on recording fees. Ms. Poore said the Register of Deeds was sworn to record the documents that are presented. Ms. Taylor-Todd stated that her home had been foreclosed on in Avery County this calendar year and she had recently become aware of the chain of title that includes a company called Charlotte Home Equity which she was told was out of business. Ms. Taylor-Todd said she wanted to know how Charlotte Home Equity had anything to do with any chain of title pertaining to her in Avery County when the company is out of business.

Dave Calvert, Newland Town Councilman, commented that the Town of Newland, the Newland Business Association and the Chamber of Commerce would like to see if a roundtable discussion can be scheduled along with someone from the Board of Commissioners concerning marketing and growth of Avery County. If these organizations got together in a brainstorming session, we could get pointed in the right direction.

Courthouse Security – Jean Taylor-Todd

Jean Taylor-Todd stated that she had written out and submitted to the Clerk the question regarding courthouse security and what statutes or authority the Board used in implementing that and paying for that with taxpayer money and also in allowing Judge Ginn to mandate that.

Michaelle Poore, County Attorney, said her understanding from Ms. Taylor-Todd's email was she was requesting certain information as a public record and also requested that information be published on the internet and in two local newspapers. Ms. Taylor-Todd said that she wanted this published in the minutes and the two local newspapers. Ms. Poore stated that as far as public records law there is not a requirement that the county publish certain information in the newspaper requested under the public records law.

Ms. Taylor-Todd questioned why the county put in courthouse security but then answered her question by saying she thought it was because Judge Ginn had threatened the county with contempt of court. Ms. Taylor-Todd questioned on what authority Judge Ginn could do that. She said she wanted the statute or rule that mandated that. She also said that she had searched the responsibilities of the senior resident superior court judge and could not find that Judge Ginn had any more authority than any other superior court judge or any authority to spend taxpayer money. Ms. Taylor-Todd said that threatening the Board with contempt of court appeared to be extortion by Judge Ginn. She said she had been a victim of the judicial system and if the citizens wanted to understand organized crime go to court in Avery County.

Avery Drug Court- Melissa Johnson

Melissa Johnson, drug court coordinator, stated that the drug court in Avery County is accepting new clients. Marissa Cornell with Avery Drug Court reported there are a total of 19 people served with currently 8 participants in this program. This program will run through June 30, 2012. Ms. Johnson stated that they were looking at grant funding for this program.

Martha Hicks commented that she had attended drug court and the participants had thanked her for the support that drug court had received.

Betty Erhart, DART committee member, also commented on the success of the drug treatment court program.

Tax Administrator Report – Phillip Barrier

Tax Collectors Report

The Total Tax Collections for the month of February 2012 is \$312,852.23.

Motion by Martha Hicks and second by Scott Heath to approve the Tax Collections Report for the month of February 2012 as presented. Motion unanimously approved.

Real and Personal Property Releases

Mr. Barrier reported that there was a clerical error with regards to interest. The Real and Personal Property Releases are \$27.77.

Motion by Martha Hicks and second by Glenn Johnson to approve the Real and Personal Releases as presented. Motion unanimously approved.

Motor Vehicle Releases

The total Motor Vehicle Releases for the month of February 2012 are \$416.08.

Motion by Scott Heath and second by Martha Hicks to approve the Motor Vehicle Releases for the month of February as presented. Motion unanimously approved.

Real and Personal Refunds

The Real and Personal Refunds for the month of February 2012 are County Tax Refund of \$4899.98 and Fire Tax Refund of \$452.73 for a total refund of \$5,352.71.

Motion by Glenn Johnson and second by Scott Heath to approve the Real and Personal Refunds for the month of February 2012 as presented. Motion unanimously approved.

Sales Statistics

There were 23 sales for the month of February 2012. Foreclosures seemed to have slowed up.

Board of Equalization and Review for 2012

Mr. Barrier stated that the Board had seven applications for the Board of Equalization and Review for 2012. The first meeting of this Board of E&R will be April 16, 2012. This is a 5 member board with two alternates.

Chairman Poteat said there was a methodology in place for choosing the Board of E&R; ballots were passed out and each member was asked to place a number from 1-7 by each name with 1 being the one that is best suited for the position. This is not a secret ballot; each ballot is signed and dated by the board member. These are on record for public inspection.

Phyllis Forbes read aloud her ballot. Don Baker 1; Edith Traver 2; Vernon Carpenter 3; Jayne McNeil 4; Bob Tatum 5; Julie Loven 6; Susan Brown 7.

Chairman Poteat called for a brief recess for the Clerk and the Chairman to tally the votes. Chairman Poteat called the meeting back to order after a brief recess.

The Board of E&R members are as follows: Don Baker; Bob Tatum; Edith Traver; Vernon Carpenter; Jayne McNeil and alternates Julie Loven; Susan Brown.

Don Baker 7 votes (3 first place; 2 second place)

Bob Tatum 15 votes; (1 first place; 1 second place; 1 third place; 1 fourth place; 1 fifth place)

Edith "Dedy" Traver 20 votes (1 second place; 1 third place; 1 fourth place; 1 fifth place; 1 sixth place)

Vernon Carpenter 23 votes (2 third place; 1 fifth place; 2 sixth place)

Jayne McNeil 24 votes (1 second place; 2 fourth place; 2 seventh place)

Julie Loven 25 votes (1 third place; 2 fifth place; 2 sixth place)

Susan Brown 26 votes (1 first place; 1 fourth place; 3 seventh place)

Chairman Poteat voted as follows: Bob Tatum 1; Don Baker 2; Julie Loven 3; Jayne McNeil 4; Vernon Carpenter 5; Edith "Dedy" Traver 6; Susan Brown 7.

Phyllis Forbes voted as follows: (these were read aloud during the meeting via telephone): Don Baker 1; Edith "Dedy" Traver 2; Vernon Carpenter 3; Jayne McNeil 4; Bob Tatum 5; Julie Loven 6; Susan Brown 7.

Scott Heath voted as follows: Susan Brown 1; Don Baker 2; Bob Tatum 3; Edith "Dedy" Traver 4; Julie Loven 5; Vernon Carpenter 6; Jayne McNeil 7.

Martha Hicks voted as follows: Don Baker 1; Jayne McNeil 2; Vernon Carpenter 3; Bob Tatum 4; Edith "Dedy" Traver 5; Julie Loven 6; Susan Brown 7.

Glenn Johnson voted as follows: Don Baker 1; Bob Tatum 2; Edith "Dedy" Traver 3; Susan Brown 4; Julie Loven 5; Vernon Carpenter 6; Jayne McNeil 7.

Mr. Barrier stated that the taxpayers did have a right to appeal the values of their property and the applications were on line or could be picked up at the Tax Assessor's Office.

Budget Amendment – Inmate Housing – Sheriff Kevin Frye

Sheriff Kevin Frye stated that a relatively low figure was put in for the inmate housing line item during the budget process last year so he was coming to the Board to ask for a budget amendment up to \$87,000. The inmates were housed in McDowell County; this is a \$50 a day charge for the inmates. The inmates were housed due to overcrowding. Tim Greene, Finance Officer, stated that there was \$30,000 budgeted in the current year. This had been upped from the previous year from \$19,000 to \$30,000 because of the jail running pretty much capacity or over capacity.

Motion by Martha Hicks and second by Scott Heath to approve up to \$87,000 fund balance appropriation to be placed in line item Avery County Jail Inmate Housing (5200.5400). Motion unanimously approved.

Economic Development Update – Bret Gardella

Bret Gardella, Economic Development Director, advised that the camera system was installed and the locks have all been changed at the old Banner Elk School property. Skyline will provide the internet service so software can be put on computers so that the cameras can be pulled up at any time. The price for this would be \$92.66 a month. Martha Hicks stated that the camera system would not benefit unless it could be checked often.

Motion by Scott Heath and second by Martha Hicks to approve the expenditure of \$92.66 a month under asset protection. Motion unanimously approved.

Mr. Gardella stated that there were two telephone poles that run through the drive through space of the parking areas. Mountain Electric has come out and looked at moving the poles. They are willing to do this for just material price only of \$3500.00. Also, a separate service would need to be installed for the kitchen/cafeteria at a price of \$1500.00. Scott Heath said that he would like to go by the property and see where the telephone poles are and where they would need to be moved.

Glenn Johnson stated that development of the incubator at the old Banner Elk School needed to be a joint project and would be a win-win situation for all of Avery County. He said there is a letter in the packet from Cheryl Buchanan, Zoning Officer in Banner Elk which states "just to reiterate no work should be done on the outside of the property, no businesses located within the property until after approval by the planning board". Mr. Johnson advised that this property is owned by Avery County. The property is zoned medical/educational but there needs to be work done on this property on the outside but without the blessings of the Town of Banner Elk I don't know where we stand with this project.

This is a project to further the economics of Avery County and hopefully create some jobs. Before we spend the taxpayers money, we need to know where we stand.

Brenda Lyerly, Mayor of Banner Elk, stated that this is just the process for Banner Elk. Rick Owen, Town Manager, has been working closely with this project. We just want to make sure that this property remains in the proper zoning so that after the fact we don't have to come back and say we do not know about that. Ms. Lyerly said that Banner Elk has asked for plans and has not seen anything in writing.

Mr. Johnson stated that there seems to be some question as to whether this may not be educational. Obviously, Lees McRae College is getting involved and Mayland Community is getting involved. He said

that Avery County cannot see going into this if we are going to have each and every business micromanaged as to whether or not it is educational. We need to move on this or put the building up for sell or whatever it takes.

Rick Owen, Banner Elk Town Manager, advised that the purpose of the letter was to put in writing what the town needs. Banner Elk would require that of anybody doing any business in Banner Elk. We are asking Mr. Gardella to return things in writing and appear before the planning board. It is not Banner Elk's intent to create any hardship on the County to do this project.

Chairman Poteat instructed Robert Wiseman, County Manager, and Bret Gardella to meet with Rick Owen, Banner Elk Town Manager, to discuss this issue.

Mr. Gardella updated the Board on other projects he was working on.

County Manager Updates – Robert Wiseman

Linville Cove

All the paperwork that is necessary to release the funds to build the infrastructure has been executed; the amount of money is \$192,000. Somewhere around the first of April the construction process should begin.

Roundabout at the new Banner Elk School

Mr. Wiseman stated that he wanted to be correct before he sent a letter to Mr. Pettyjohn about the roundabout at the new Banner Elk School. Mr. Wiseman said it was his understanding that this project was put on hold until further notice.

Mr. Heath advised that at the last joint meeting of the Avery County Board of Commissioners and Avery County Board of Education there was a consensus of the two boards to put this project on hold. Mr. Heath said that he was on the agenda at the next meeting of the Town of Banner Elk to relay to them the consensus of both boards and to get feedback from them regarding this. If there is a substantial difference in their feelings and the feelings of the other two boards, a meeting will need to be scheduled with all three boards.

Advent Lane

Mr. Wiseman stated that he had another third party recommendation for our responsibility, i.e. school board, for any damages done to Advent Lane. There is a plan in place that hopefully will be amenable to all parties.

Courthouse Renovation

Mr. Wiseman advised that he had met with Tony Street, Beeson, Lusk & Street and Lisa Daniels, Clerk of Court, to discuss the needs and what we can do within the parameters to work within the courthouse during renovation. We are in the process of the preliminary design. If the plan is to consider a construction management firm to help through this process as they have through the Banner Elk School and the jail, we need to consider this early in the process.

VA Memorials

At the last meeting, a gentleman spoke to the Board about the VA Memorials in front of the courthouse. The backside of the memorials is not being utilized and there is room for this to be utilized. The gentleman also requested that the names be in alphabetical order but there is no way to do that. There is no way to get all of these in alphabetical order.

Sign at the Heaton Bridge

The same gentleman questioned about putting a sign at the bridge at Heaton in memory of Officer Glenn Hicks. Sondra Austin called the NC DOT regarding this and there were three options given. One of the options is to wait until the sign may be switched out; another option is for the county to assume all responsibility for the expenses.; the last option would be for any interested group of citizens to request a change and pay for the sign.

N.C. Home & Community Care Block Grant

In order for the budget process to begin for Aging Services, the Board must appoint a lead agency to head the planning and budget process. Mr. Daniels has requested that the Avery Senior Services be designated as the lead agency. A committee must be appointed to advise the agency. Mr. Daniels has requested that the list of individuals included in the packet be appointed to the Home & Community Care Block Grant Advisory Committee for FY 2013.

Motion by Glenn Johnson and second by Martha Hicks to approve the Avery Senior Services as the lead agency for the Home & Community Care Block Grant and the list of individuals appointed for the Home & Community Care Block Grant Advisory Committee for the Fiscal Year 2013. Motion unanimously approved.

Finance Officer Report – Tim Greene

Budget Amendment #

The Avery County Jail has received a U.S. of Justice State Criminal Alien Assistance Program grant in the amount of \$1,785.00. This grant is to be used for correctional purposes only.

Motion by Martha Hicks and second by Scott Heath to approve the \$1,785.00 grant received from the U.S. Justice State Criminal Alien Assistance Program with a debit of \$1,785.00 to Security (105200.1475) and a Credit of \$1,785.00 to US Department of Justice Grant. Motion unanimously approved.

County Attorney Report – Michaelle Poore

Michaelle Poore, County Attorney, reported that the notice for sale of the property to the Avery County Humane Society was published in the newspaper and the 10 day upset bid has passed and no one filed an upset bid. The Board needs to authorize the sale of the property along with the conditions previously approved.

Motion by Martha Hicks and second by Glenn Johnson to approve the sale of the four acre tract to the Avery County Humane Society upon the terms and conditions previously approved by the Board.

Scott Heath stated that he did not vote for the previous conditions because he felt that this was unwise putting that property in jeopardy so his vote will be the same.

Vote: Motion passes 4 to 1. In Favor---Kenny Poteat; Phyllis Forbes; Martha Hicks; Glenn Johnson Against---Scott Heath.

Ms. Poore reported that there are a couple of older tax foreclosures that is working their way through the process. There is a list of foreclosures given to me by Ms. Daniels. I had spoken with Mr. Barrier and he wants to change the process and he is making a new list. With the new computer system, the tax office is better able to trace the delinquencies so Mr. Barrier wanted to begin with the accounts with the highest outstanding balances.

Ms. Poore also reported on a prior tax foreclosure regarding the Loenthal matter which was a case that the lender let the property go into foreclosure. The property owners thought that the lender had paid the taxes. There was some confusion there. Basically, the County's risk pool has authorized the payment of \$3000 to settle that issue. The county will not be out any money. The risk pool is providing the funds and had hired an independent attorney.

Motion by Martha Hicks and second by Glenn Johnson to approve the settlement agreement in regard to the Loenthal tax foreclosure. Motion unanimously approved.

Closed Session

Motion by Martha Hicks and second by Glenn Johnson to go into Closed Session at 5:55 p.m. regarding Attorney/Client Privilege G.S. 143-318.11 (a)(3). Invitees are the Board, County Attorney, County Manager, Finance Officer and Clerk to the Board and the right to call anyone else in the audience if needed. Motion unanimously approved.

Chairman Poteat declared the meeting to be in Regular Session after a time of Closed Session at 6:55 p.m.

Approval of Minutes

Motion by Martha Hicks and second by Glenn Johnson to approve the minutes from the Board Workshop January 24, 2012; Regular Meeting February 6, 2012; Closed Session February 6, 2012. Motion unanimously approved.

Agenda Consent Items

Adopted by Consensus of the Board.

Upcoming Meetings

The next Regular scheduled meeting is April 2, 2012. The first budget meeting will be April 26, 2012 at 4:00 p.m.

Adjourn

Motion by Glenn Johnson and second by Scott Heath to adjourn this meeting at 6:55 p.m. Motion unanimously approved.

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

ATTEST: _____
Cindy Turbyfill, Clerk