

**STATE OF NORTH CAROLINA
COUNTY OF AVERY**

The Avery County Board of Commissioners met in Regular Session on Monday, March 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 3:32 p.m.

Martha Hicks led prayer.

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

Proclamations and Awards

Sheriff Kevin Frye introduced Mike Vincell who is the plant manager at Unimin. Mr. Vincell presented a check to Avery County for \$8000 for a new K-9 unit for the Avery County Sheriff's Office. Sheriff Frye thanked Unimin for their contribution to the new K-9 unit. Chairman Poteat also thanked Unimin for the contribution on behalf of the Avery County Board of Commissioners.

Public Comment

Junior Sluder, Avery Fire Association, announced that the Newland Fire Department had just received a rating of 6/6; in town fire rating came down from an 8 to a 6 and outside town fire rating came down from a 9 to a 6. Mr. Sluder stated that this rating saved in the fire district alone over one million dollars. He advised that to get better ratings and to save the County money, the fire departments needed money at least part of the 1.5 to 2 million dollars that the fire departments save the citizens of Avery County.

Scott Heath reported that he got his Code Red phone call about Hwy 221 being shut down and that it seemed like the system was working well.

Chairman Poteat stated that the Board had talked over the past couple of months after being approached by Mr. Bill Close with the possibility of passing a resolution that would give the registered voters of Avery County opportunity to vote via public referendum in the next general election for sale of malt beverage beer in the unincorporated areas of Avery County and the sale of unfortified wine in the unincorporated areas of Avery County. At that time the Board eluded to a public hearing to receive public comments. The public hearing to receive public comments on this issue will be Tuesday, April 19th at 4:00 p.m.

Board Appointments

Avery Agricultural Advisory Board – Gerald Arthur

Gerald Arthur reported that the Farmland Preservation Program was at 1800 acres now. Last year there were two positions to be filled. Mr. Paul O'Connell accepted one of the positions but Calvin Winters declined the position. There is still one vacant spot to finish out the term of Gary Edwards which was a three year term.

Motion by Phyllis Forbes and second by Martha Hicks to appoint Mr. Kenneth Hughes to fill a vacancy on the Avery Agricultural Advisory Board fulfilling the unexpired term of Gary Edwards.

Mr. Arthur stated that Mr. Hughes also serves on the ASCS board as an elected position.

Motion unanimously approved.

County Manager Updates – Robert Wiseman

Robert Wiseman, County Manager, stated that he had in his possession a proposal from McGill & Associates to do the engineering work for the turn lanes and the storm water control at the entrance of the new Banner Elk School. The engineering and construction of that aspect of the project is not part of the general contract. He advised that he had talked with Mike Pettyjohn, NC DOT, Michael Poe, NC DOT and there is a meeting scheduled for the 14th of March to discuss the possibility of them helping to fund if not fund the engineering and construction cost of that aspect of the new Banner Elk School project. This project could approach one million dollars for engineering and construction.

**Public Hearing – Fiscal Year 2011/2012 Community Transportation Grant Application- Avery County
Transportation – Linda Cuthbertson**

Motion by Glenn Johnson and second by Martha Hicks to go out of Regular Session and into a time of Public Hearing at 3:50 p.m. regarding the FY 2011/2012 Community Transportation Grant Application for Avery County Transportation. Motion unanimously approved.

Linda Cuthbertson, Avery County Transportation Director, advised that this public hearing was to receive public comments regarding the Avery County Community Transportation Program Application. This program provides assistance to coordinate existing transportation programs operating in Avery County as well as provides transportation options and services for the communities within this service area. The total estimated amount requested for the period is \$343,800. The capital amount requested of \$117,200 is for 3 vehicles. The total local share is \$45,710.

Rachel Deal, citizen of Avery County, stated that Avery County had one of the best public transportation departments in the state.

Sam Ray, citizen of Avery County, stated that Avery Transportation did a tremendous amount of service for the veterans.

Motion by Martha Hicks and second by Phyllis Forbes to go out of the Public Hearing regarding the Community Transportation Grant Application for Avery County Transportation and back into Regular Session at 4:00 p.m. Motion unanimously approved.

Motion by Scott Heath and second by Glenn Johnson to approve the Community Transportation Program Resolution for Avery County Transportation. Motion unanimously approved.

Tax Collectors Report – Phillip Barrier

Phillip Barrier, Tax Assessor, gave the report for the Tax Collector in the absence of Mary Daniels Calloway. The total tax collection for the month of February 2011 is \$368,329.10.

Motion by Martha Hicks and second by Glenn Johnson to approve the Tax Collector's Report for the month of February 2011 as presented. Motion unanimously approved.

The Tax Collector's Office has sent over 3500 late notices for taxes.

Tax Assessors Report – Phillip Barrier

Real and Personal Releases

Phillip Barrier, Tax Assessor, stated that there were two releases for the month of February with a County Tax Release of \$632.29; Fire Tax Release of \$51.83. Both of these are single wide mobile homes; these two single wides are not in the county so there could be no collection.

Motion by Phyllis Forbes and second by Scott Heath to approve the Real and Personal Releases for the month of February 2011 as presented. Motion unanimously approved.

Real and Personal Refunds

Mr. Barrier stated there was a clerical error on a house and this needed to be refunded. County Tax \$270.60 and Fire Tax of \$32.80.

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

Motor Vehicle Releases

There is one motor vehicle release with a County Tax Release of \$40.23 and a Fire Tax Release of \$4.88.

Motion by Martha Hicks and second by Scott Heath to approve the Motor Vehicle Releases for the month of February 2011 as presented. Motion unanimously approved.

Real Property Sales Statistics

For the month of February, there were 6 foreclosures and 11 sales.

Board of Equalization and Review Board-2011

Mr. Barrier stated that it is the time of year to consider the applications for the 2011 Board of Equalization and Review. The meetings will start Monday, April 11, 2011 in the courthouse. There are 7 applicants. There must be 5 members chosen and there can be two named as alternates. Chairman Poteat stated that the selection process is a methodology much like golf and the ones with the lowest score will win. He said that the voting forms must be signed and dated and would be on file in the Clerk's office for public inspection.

Chairman Poteat called for a 4 minute recess so the votes could be counted by the Chairman and the Clerk. Chairman Poteat called the meeting back in order after a brief recess.

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

Julie Loven 15 votes (3 second place, 1 third place, 1 sixth place)
Don Baker 16 votes (1 first place, 3 third place, 1 sixth place)
Bob Tatum 18 votes (1 first place, 1 third place, 1 fourth place, 2 fifth place)
Susan Brown 21 votes (2 first place, 1 fifth place, 2 seventh place)
Jayne McNeil 22 votes (1 first place, 1 second place, 1 fifth place, 2 seventh place)
Edith "Dedy" Traver 23 votes (3 fourth place, 1 fifth place, 1 sixth place)
Vernon Carpenter 25 votes (1 second place, 1 fourth place, 2 sixth place, 1 seventh place)

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

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

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

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

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

The Board of E&R will meet for the first meeting on April 11, 2011. Any taxpayer who owns property in Avery County has the right to appear before this Board if they feel the tax value is not in line. The last day to submit an application for appeal is April 21, 2011.

Mayland Community College – Dr. John Boyd

Dr. John Boyd, new President of Mayland Community College, explained that Mayland was in the process of relooking at the mission and vision statement and the President's Counsel is working towards that means. The theme that we are going forward with is embracing the communities and the counties that we serve. Mayland is focusing on workforce. Ultimately in this economy jobs are important and we are putting the focus on that. Mayland is working close with the economic developments in the three counties and the Toe River Economic Alliance.

WAMY—Bobbie Willard

Bobbie Willard WAMY director, stated that she had sent out the entire grant which is year three of a five year grant. This covers Watauga, Avery, Mitchell and Yancey Counties. The Office of Economic Opportunity requires that this grant is reviewed by each Board of Commissioners. It does not need to be approved but available for review and any questions that the Board may have. There is a \$79,000 cut. The need has grown but the money keeps shrinking. Scott Heath stated that the fundamental principle of WAMY is that you are teaching people to be self-sufficient and not to be dependent. Ms. Willard introduced the new Executive Director, Jane Lentz. Mr. Heath advised that Avery County is the only county that contributes to WAMY.

County Manager Updates – Robert Wiseman

Robert Wiseman, County Manager, advised that the Sheriff needed to be at another engagement and would like to be moved up on the agenda.

Broadband

There will be a Webinar regarding Broadband on March 28, 2011.

Courthouse Security

Mr. Wiseman advised that a new front door has been ordered. This will be the first step with courthouse security. There is a lot of building code requirements and security is not as simple as we first thought it would be.

Economic Development Director

The Economic Development Director for Avery County has been advertised in the "County Lines" and will be advertised in other newspapers. Deadline for applications are April 15, 2011 at 4:30 p.m.

Banner Elk School

Mr. Wiseman advised that there was some concern at the Best Western Hotel that the well water had gotten some turbidity whether it was due to heavy rains or geothermal wells that issue has been resolved. MB Kahn went to Asheville and bought a filter system to put in the hotel's well to alleviate any possibility of muddy water.

"Justice Reinvestment in North Carolina" Report ----Sheriff Kevin Frye

Sheriff Kevin Frye read aloud from the report a consideration by the Governor. "A large volume of people convicted of misdemeanors cycle through the state prisons. North Carolina is one of a few states using state prisons to incarcerate people convicted of misdemeanors with sentences of 90 days or longer. People convicted of misdemeanors account for almost one quarter of all admissions to prison." Sheriff Frye stated that this is something that is being considered by the state. Also, probation officers will be given the authority to automatically sentence a probation violator from 1 to 6 days. This will be something that sooner or later will have to be dealt with. Sheriff Frye stated that in the long range planning knowing that this is something that is going to be taking place we can look at an opportunity to build a larger jail at some point in the near future so we can house inmates for other counties. This needs to be an option in the future.

Subdivision Ordinance

Mr. Wiseman stated that the Board's goal was to adopt the changes in the Subdivision Ordinance as presented. The question has arisen about an attachment that was part of the revisions that were presented and there was some discussion concerning that attachment.

Joe Shoupe, NC Forest Ranger, stated that in August 2008 this process began. Under the document that was in the packets at the Public Hearing was Appendix 9 that had to deal with water supply. Most of the amendments to the Subdivision Ordinance dealt with access. We noticed that water supply was not in there and this concerned us. It was part of the document that went through the public hearing.

Tommy Burlison stated that when I brought this before the planning board the appendix was in there before. He stated that he created the Appendix 10 today which mirrors the NFPA 24 which is a part of the NC State Government Code. This is put in so engineers would know. This was addressed during a planning board review.

Michaëlle Poore, County Attorney, advised that she had met with Loretta Smith and Tommy Burlison last week to go over the changes. It is my understanding that the information on the water supply Appendix 9 was really for informational purposes; it is already required elsewhere by the state. Ms. Poore said she had spoken with Mr. Lacey and it was his recollection that the planning board did not look at the specific requirements set forth in the NFPA's and since it was already addressed by the state it seemed best to omit it. It was determined sometime today that the planning board had looked at that. My concern with the Appendix 10 that has been brought today is that it addresses three things : an NFPA 24, NFPA 22 and then the third requirement doesn't list any NFPA or anything else and the first one addresses public property in Manual 31 ; private in NFPA 24 and the last one addresses something in NFPA 1142. These are not the same. Ms. Poore stated that she is not sure what the planning board looked at.

Ms. Poore had a document that was given to the Board. Ms. Poore stated that this document is what was presented at the public hearing that addressed water supply. After I met with Tommy and Loretta and found out it was required by the state and the planning board has not looked at the requirements that is set forth in that Appendix but that was to be given for informational purposes and was not binding, my recommendation was that it be removed. It was removed from what was included in the board packet. Today Loretta reviewed the planning board minutes and something came before the planning board and the planning board approved to put in something on the water supply and the appendix 10 is what Tommy put together today to reflect what the planning board had proposed but that is different than what was presented at the public hearing. Ms. Poore pointed out to the Board that having seen the copy of the minutes from the planning board, the contents of the old Appendix 9 is what was approved by the planning board and addressed at the public hearing.

Motion by Scott Heath and second by Phyllis Forbes to approve the Subdivision Ordinance for Avery County, North Carolina as amended, therein, referencing appendix 8 in what has been presented that the handwritten notations will go away and also as an addition by vote of the Board that an appendix 10 concerning water supply be added and be part of the Subdivision Ordinance of Avery County that was formerly appendix 9.

Glenn Johnson requested that legal counsel, Mr. Burlison and Ms. Smith make sure that the Subdivision Ordinance have the proper appendices as presented today.

Martha Hicks stated that she had read the Subdivision Ordinance and had found three errors. Ms. Hicks advised that she would like to have the information before she came to the meeting so she could read over it.

VOTE: Motion unanimously approved.

Fee Schedule Changes for Well Inspection – Allen Hughes

Allen Hughes, Toe River Health District Employee, advised that the well permit is \$250.00. The increase in total price is due to an increase in the cost that the state lab charges for the water sample kit. The state lab charges \$67.08 for the water sample kit (\$7.92 of the overage is used to cover shipping, etc.) If this fee change is not approved, the county would be losing money due to the increase in the water sample kit.

Motion by Scott Heath and second by Phyllis Forbes to increase the well permit fees to match that of the states increase in the water sample kit. Motion unanimously approved.

Finance Officer Report – Tim Greene

There was no report today.

County Attorney Report – Michaëlle Poore

The County Attorney stated she did not have anything to bring before the Board.

Agenda Consent Items

Adopted by Consensus of the Board.

Upcoming Meetings

Public Hearing scheduled for April 19, 2011 at 4:00 p.m. In May, there will be two meetings a month.

Adjourn

Motion by Scott Heath and second by Glenn Johnson to adjourn this meeting at 5:33 p.m. Motion unanimously approved.

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

ATTEST: _____
Cindy Turbyfill, Clerk