

**STATE OF NORTH CAROLINA
COUNTY OF AVERY**

The Avery County Board of Commissioners met in Regular Session on Monday, November 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 (via telephone from Washington State); Scott Heath; Martha Hicks; Glenn Johnson

Members Absent: None

Call To Order

Chairman Poteat called the meeting to order at 3:35 p.m.

The County Attorney stated that it was her understanding that Commissioner Forbes could vote by telephone because she did have all of the materials and could participate in discussion and hear everything that was presented. Chairman Poteat led prayer.

Robert Wiseman, County Manager, stated that there needed to be an amendment to the agenda. At 3:50 p.m. there is a public hearing scheduled concerning the closure of the Old Yonahlossee Road. A letter was received from legal counsel informing us that the petition has been withdrawn and therefore this becomes a moot issue. With having all five members present with one via telephone, it is suggested that the agenda be amended to remove that public hearing and then everything else would slide forward.

Motion by Martha Hicks and second by Glenn Johnson to approve the amendment to the agenda removing the Public Hearing regarding the closure of Old Yonahlossee Road from the agenda. Motion unanimously approved.

Public Comment

There were no public comments.

Martha Hicks announced that on Thursday, November 10, 2011 there would be a breakfast at the Senior Center for the veterans and then at 9:00 a.m. a bus would take the veterans to the Avery High School for a Veteran's Day program.

Sheriff Kevin Frye commented that the Avery Citizens Academy would have graduation tonight and Commissioner Martha Hicks would graduate from this program.

Tax Administrator Report – Phillip Barrier

Tax Collections Report

Phillip Barrier, Tax Administrator, stated that he had changed the report for the Tax Collector's Report that gives a comparison with the previous year. The Tax Collections for the month of October 2011 is \$1,358,873.80.

Motion by Martha Hicks and second by Scott Heath to approve the Tax Collector's Report for the month of October 2011 as presented. Motion unanimously approved.

Real Property Releases

Mr. Barrier stated that he had new software that could generate a new report for real property releases. The Real Property Releases for October 2011 are County Tax \$690.42, Fire Tax \$77.85 for a total taxes released of \$768.27.

Motion by Glenn Johnson and second by Scott Heath to approve the Real Property Releases for the month of October 2011. Motion unanimously approved.

Motor Vehicle Releases

The Motor Vehicle Releases for October 2011 are County Tax \$278.83, City Tax \$141.41, Fire Tax \$35.58 for a total tax release of \$455.82.

Motion by Martha Hicks and second by Glenn Johnson to approve the Motor Vehicle Releases for the month of October 2011. Motion unanimously approved.

Motor Vehicle Refunds

The Motor Vehicle Refunds for the month of October 2011 are County Tax Refund \$3.23; Fire Tax Refund \$0.42 and City Tax Refund of \$18.68.

Motion by Glenn Johnson and second by Scott Heath to approve the Motor Vehicle Refunds for the month of October 2011. Motion unanimously approved.

Real Property Sales Statistics

Mr. Barrier reported that unfortunately Avery County is seeing the tax amount less than the sale amount for real property sales. Foreclosures for the month were up to 12.

Chairman Poteat announced that due to the fact that Linville Resorts has withdrawn the petition to close Old Yonahlossee Road that has become a moot issue and would not require the public hearing.

Joint Resolution—Mayland Community College – Dr. John Boyd

Dr. John Boyd, President of Mayland Community College, advised that there is a joint resolution which is required if the county funding is not equal and also included in the resolution is the authorization to transfer up to a total of \$60,000 from capital to operating. Over the last couple of years there was a supplement that the state was giving Mayland of \$70,000 to help with operating and that has been cut. The other document is the budget sign off that the Chairman needs to sign.

Chairman Poteat questioned the Finance Officer, Tim Greene, about the 3% decrease in funding from Avery County to Mayland Community College in the 2011-2012 budget. Mr. Greene stated that in the past fiscal year Avery County had committed \$40,000 in capital plus an additional \$80,000 for the Avery Campus. In the budget request that was submitted for the 2011-2012 budget, Mayland requested \$30,000 in capital which has been traditionally what was requested so we granted the \$30,000 so in that sense we were looking as we were not cutting but we did go from \$40,000 down to \$30,000.

Chairman Poteat questioned Dr. Boyd if the approval of this resolution would allow transfer of the \$60,000 needed. Dr. Boyd answered that this would allow the moving of the \$60,000 from capital to operating to cover the expenses in the operating budget due to the cutting of funds from the state.

Scott Heath stated that his “reasoning” on this is “operational budgets is where inefficiency and money is wasted as opposed to capital budgets. When you get into operational, you get into employees, salaries, etc. I am not a big fan of large operational budgets or increases in operational budgets because that is where inefficiency is particularly in respect to taxes and governmental dollars.”

Motion by Glenn Johnson and second by Martha Hicks to approve the 2011 Joint Resolution on behalf of Avery County which will enable Mayland Community College to transfer up to \$60,000 from capital to operational. Motion unanimously approved.

Resolution--2012 NC Annual Action Plan Funding Distribution—Michelle Ball

Michelle Ball, High Country Council of Government, stated that the resolution is in regards to the draft of the 2012 NC Annual Action Plan. This plan spells out what North Carolina plans to do with their pass through money from HUD. This includes home funds as well as community development block grants. Avery County is up for 2012 cycle for Scattered Site. Due to some cuts from HUD, there have been some cuts to the Scattered Site budget. The allotment for Avery County will be cut from \$400,000 to \$250,000 for 2012. This has been at \$400,000 for the last 20 years. This resolution is asking that the amount be restored to the \$12,800,000 that it has historically been.

Motion by Martha Hicks and second by Scott Heath to approve the Resolution for the 2012 North Carolina Annual Action Plan Funding Distribution. Motion unanimously approved.

Old Banner Elk School/New Banner Elk School

Michaelle Poore, County Attorney, said as the Board would recall that when the project began there was an agreement with the school board that the new school would be exchanged for the old school. The deed is the deed to the old school and the lease agreement is a lease on the new school. There is financing on the new school which is in the county's name so the county will lease the property back to the Board of Education during the time of the financing. The school board attorney has reviewed these documents also. The school board is scheduled to approve these documents at their next meeting.

Motion by Glenn Johnson and second by Martha Hicks to approve the execution of the lease for the New Banner Elk School and the deed for the Old Banner Elk School by the Chairman. Motion unanimously approved.

Recess

Chairman Poteat called for a brief recess.

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

Toe River Health District Fee Schedule – Allen Hughes

The Fee Schedule for the Toe River Health District needs to be approved. There has been no change in this fee schedule. The Toe River Health Board approved this fee schedule on September 27, 2011. The fee for well permitting is \$250.00 and has not changed since 2008. Toe River does not have control over the cost of the lab fee for water sampling and so the public has been charged exactly what the state lab charges.

Motion by Martha Hicks and second by Scott Heath to approve the Toe River Health District Fee Schedule as presented. Motion unanimously approved.

Drug & Alcohol Testing Policy Revision – Avery County Transportation – Linda Cuthbertson

Linda Cuthbertson, Director of Avery County Transportation, reported that the NC Department of Transportation contracts with a company RLS to work with transit systems to make sure the transit systems are in compliance with

FDA regulations. She said that she was seeking the adoption of the updated policy. The County Attorney stated that she did not see anything to cause concern with these updates.

Motion by Glenn Johnson and second by Scott Heath to approve the changes highlighted in red to the Drug & Alcohol Testing Policy. Motion unanimously approved.

County Manager Updates – Robert Wiseman

New River Mental Health

Mr. Wiseman stated that there were two issues that relate to New River Mental Health. There are no funds to cover the payroll expenses occurring in the month of October. The pro rata portion for Avery County is 9.73%. The motion would be to appropriate monies for payroll and critical payables up to \$90,000.

Mr. Wiseman said to get everyone “up to speed” in 2006 the New River Service Area was formed through the enabling legislation for what was called a 160A Interlocal Agreement with 5 counties. This contract says that all 5 counties would share in the operating expenses on a pro rata basis but the flip side was is if New River ever went “belly up” there would be a pro rata share also and the counties would be responsible.

Scott Heath questioned if this would be the last month of payroll. Mr. Wiseman stated that this was not the last month. The last day of October there were 300 employees employed by NRMH. Everyone of those positions were RIF’d with only a skeletal crew of 5 or 6. Daymark is taking over effective November 1, 2011 so there will be a little leftover payroll. There were 31 positions in Avery County and only two of those positions were RIF’d.

Mr. Heath questioned if there was anything in place to keep this from happening again. Chairman Poteat stated that Daymark was a private company but Smoky Mountain Center was the “watchdog”. Mr. Johnson commented that the local management entity is each of the counties’ agent. It is the LME’s responsibility by state law to see that services are provided. Mr. Wiseman said that a short time ago there was pretty considerable turnover at the executive level in the SMC management. There was a new CEO and several other people took over the watch and the “new kids on the block” started asking questions that should have been asked before. The new CEO started asking questions and couldn’t get answers. Things that started to become evident were Medicaid claims were not submitted, no backup tapes were being made, bank reconciliation had not been done in almost a year and as of June 2009 there was over 3 million dollars in the fund balance and now the fund balance is \$5000.00.

Mr. Heath questioned if there were any assets that with dissolving of New River that could be sold. Chairman Poteat said that Avery County does hold a deed of trust to the New River property in Avery County. Michaelle Poore, County Attorney, stated that this gives the county a security interest in the property and Avery County can, if the county is not paid back for the funds, foreclose on the property. Mr. Wiseman advised that the value of the building is approximately \$500,000.

Mr. Wiseman advised that once the NC Division of Medical Assistance finishes their audit some money should be freed up from Medicaid which will cover some of the expenses.

Mr. Wiseman stated that the New River Transition Board has approached the firm of Martin and Starnes to consult in this situation. A summary of the scope of services that they will provide was read by Mr. Wiseman. There would be a \$10,000 up front fee. A resolution would need to be approved for this issue.

Motion by Glenn Johnson and second by Martha Hicks to approve a resolution that would allow Avery County to pay its pro rata share to engage Martin & Starnes to pursue the audit for the New River Mental Health Transition Board not to exceed \$60,000 with Avery County’s share being up to \$6,000. Motion unanimously approved.

Mr. Wiseman stated that a budget amendment in an earlier meeting for up to \$90,000 was for the payroll for September. A motion would need to be made for a budget amendment of up to \$90,000 for the October payroll.

Motion by Scott Heath and second by Martha Hicks to approve a Budget Amendment of up to \$90,000 to apply to payroll and critical payables for New River Mental Health. Motion unanimously approved.

Purchase of Property by Smoky Mountain Center

Mr. Wiseman stated that the approval of the resolution for purchase of property in Haywood County by Smoky Mountain Center had been tabled at the last meeting so that more information could be obtained. Smoky Mountain Center has the funds on hand to purchase the property and no additional appropriation would be required now or in the upcoming budget.

Motion by Glenn Johnson and second by Martha Hicks to approve the resolution of the Avery County Board of Commissioners regarding the purchase of the real property in Haywood County by Smoky Mountain Center.

Glenn Johnson advised that Smoky Mountain Center has been occupying these building for some time and that Smoky Mountain had obtained a Medicaid waiver so SMC would be hiring approximately 70 people and that is the reason for the expansion.

Motion unanimously approved.

Finance Officer Report – Tim Greene

Budget Amendment #

In order to create an additional position for the courthouse security, the following budget amendment would be necessary. The yearly salary would be \$26,882 prorated for the remaining 17 payrolls in this fiscal year.

Motion by Scott Heath and second by Martha Hicks to approve the Budget Amendment engaging the placement of a courthouse security officer with a debit of \$17,577.00 to Salary-Deputies (105100.0220); debit of \$1,345.00 to FICA-Administration (105100.0500); debit of \$1,239.00 to Retirement (105100.0600); debit of \$7,184.00 to Group Insurance (105100.0700); debit of \$879.00 to 401K Retirement (105100.0800); debit of \$2,600.00 to Uniforms (105100.3600); debit of \$1,400.00 to Capital Outlay-Equipment (105100.7410) and a credit of \$32,224.00 to Fund Balance Appropriated (103990.0000). Motion unanimously approved.

Budget Amendment #

The Senior Center has received \$6,129.00 from the NC Department of Insurance to be used for counseling Medicare recipients.

Motion by Glenn Johnson and second by Scott Heath to approve a Budget Amendment of \$6,129 received from the NC Department of Insurance by the Senior Center with a debit of \$3,280.00 to Salaries-Other (105960.0210); debit of \$199.00 to FICA-Administration (105960.0500); debit of \$250.00 to travel (105960.1400); debit of \$400.00 to advertising (105960.2600); debit of \$800.00 to Supplies-Office/Janitorial (105960.3300); debit of \$1,200.00 to capital outlay (105960.7400) and a credit of \$6,129.00 to Senior Services – State Grant. Motion unanimously approved.

Budget Amendment #

Avery County has received a Community Development Block Grant to be used for the Linville Cove Apartment Project. Hobbs, Upchurch & Associates, P.A. will be administering the grant.

Motion by Martha Hicks and second by Scott Heath to approve a Budget Amendment of \$192,000 to be used for the Linville Cove Apartment Project with a debit of \$192,000 to Housing Development Grant (417000.6930) and a credit of \$192,000 to Revenue –CDBG Funds (413100.0000). Motion unanimously approved.

Sheriff Kevin Frye stated that with the security system is a card that would access the locked doors at the courthouse. The cards cost \$10.00 per card. The cards will be given to employees at the courthouse.

Motion by Glenn Johnson and second by Martha Hicks to have the employees pay for an access card if they lose their first card. Motion unanimously approved.

County Attorney Report – Michaelle Poore

No other report. There will be a time of Closed Session.

Closed Session

Motion by Martha Hicks and second by Scott Heath to go out of Regular Session and into a time of Closed Session at 5:55 p.m. concerning Attorney/Client Privilege G.S. 143-318.11 (a)(3). Invitees are the Board, Phyllis via telephone, County Manager, County Attorney, Clerk. Motion unanimously approved.

Chairman Poteat declared the meeting to be back in Regular Session at 6:35 p.m. During Closed Session, no vote was taken.

Chairman Poteat instructed the County Attorney to look into legal ramifications of the sale of the property for the new animal shelter and report at the next regular scheduled meeting.

Approval Of Minutes

Motion by Glenn Johnson and second by Martha Hicks to approve the Regular Meeting Minutes for September 19, 2011; Joint Meeting with the Board of Education September 19, 2011; Special Meeting September 22, 2011; Regular Meeting October 3, 2011; Special Meeting October 7, 2011. Motion unanimously approved.

Agenda Consent Items

Adopted by Consensus of the Board.

Mr. Wiseman stated there was a contract in his office that changes the county's relationship for CJPP. When Avery County gets the money it did go to Smoky Mountain Center and then to New River but now it needs to go to Smoky Mountain Center and then on to Daymark. **Consensus by the Board for the County Manager to take care of this issue.**

Upcoming Meetings

There will be a Special Meeting November 21, 2011 at 3:30 p.m. with the Fire Association. Invitees are the Avery Fire Association and the Avery Fire Commission.

The January 2, 2012 board meeting will be rescheduled to Tuesday, January 3, 2012 due to the New Year's Holiday.

Adjourn

Motion by Scott Heath and second by Glenn Johnson to adjourn this meeting at 6:40 p.m. Motion unanimously approved.

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

ATTEST: _____
Cindy Turbyfill, Clerk