

**STATE OF NORTH CAROLINA
COUNTY OF AVERY**

The Avery County Board of Commissioners met in a Regular Session on Monday, October 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; Phyllis Forbes, Vice-Chair; Scott Heath; Martha Hicks; Glenn Johnson

Members Absent: None

Call To Order

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

Chairman Poteat stated that if anyone would like to speak to an agenda item but was not listed on the agenda they must sign up on the sheet with the clerk otherwise there would be a time of public comment. Glenn Johnson led prayer.

Robert Wiseman, County Manager, requested that the agenda be rearranged due to the New River Mental Health/Smoky Mountain Center issues that are going on. This is moving the Closed Session from 3.6 up to 3.3A.

Public Comment

There were no public comments.

Martha Hicks commented that she had attended the drug task court last week and there were five young men and one girl. Two of the young men will be graduating October 6. The girl had failed a drug test so Judge Lyerly gave her 90 days in jail.

Board Appointments

Avery County Joint Community Advisory Committee

The terms of Mildred Lane and Jean Franz to the Avery County Joint Community Advisory Committee will expire effective October 18, 2011 and November 6, 2011 respectively. They have indicated their desire to be reappointed for additional three year terms.

Motion by Glenn Johnson and second by Martha Hicks to reappoint Mildred Lane and Jean Franz to the Avery County Joint Community Advisory Committee for three year terms. Motion unanimously approved with those in attendance (4-0).

Tax Administrators Report – Phillip Barrier

Tax Collectors Report

The total Tax Collections for the month of September 2011 is \$3,049,307.44

Motion by Phyllis Forbes and second by Martha Hicks to approve the Tax Collector's Report for the month of September 2011 as presented. Motion unanimous with those in attendance (4-0).

Real and Personal Releases

The Real and Personal Releases for the month of September 2011 are County Tax Release of \$3,904.84; Fire Tax Release \$477.63 for a total of taxes to be released of \$4,382.47.

Motion by Martha Hicks and second by Glenn Johnson to approve the Real and Personal Releases for the month of September 2011 as presented. Motion unanimous with those in attendance (4-0).

Real and Personal Refunds

The Real and Personal refunds for the month of September 2011 are County Tax Refund of \$36.30 and Fire Tax Refund of \$4.40 for a total of taxes to be refunded of \$40.70.

Motion by Phyllis Forbes and second by Martha Hicks to approve the Real and Personal Refunds for the month of September 2011 as presented. Motion unanimously approved with those in attendance (4-0).

Motor Vehicle Releases

The Motor Vehicle Releases for the month of September 2011 are County Tax Release of \$251.31 and Fire Tax Release of \$29.27 and City Tax of \$36.72 for a total of \$317.30.

Motion by Glenn Johnson and second by Phyllis Forbes to approve the Motor Vehicle Releases for the month of September 2011 as presented. Motion unanimously approved with those in attendance (4-0).

Public Hearing – CDBG NC Tomorrow Application – Michelle Ball

Motion by Martha Hicks and second by Glenn Johnson to go out of Regular Session and into a time of Public Hearing at 3:50 p.m. regarding the CDBG NC Tomorrow Application. Motion unanimously approved with those in attendance (4-0).

Scott Heath entered the meeting at 3:52 p.m.

Michelle Ball, High Country Council of Governments, reported that this is the second public hearing for the NC Tomorrow Project. It is for the statewide comprehensive economic development strategy that each Council of Government will be doing. This is a \$50,000 grant that will be passed through Avery County for the High Country Council of Government. The Workforce Development Board will act as the strategy committee and we will be working with community college planning staffs, county managers, health care providers, etc. The final report will need to be approved by the High Country Council of Governments.

Rachel Deal questioned if this was \$50,000 per county. Michelle Ball stated that this was \$50,000 for the council of government to do this for all 7 counties.

Motion by Martha Hicks and second by Scott Heath to go out of Public Hearing at 3:58 p.m. Motion unanimously approved.

Motion by Phyllis Forbes and second by Martha Hicks to have the chairman sign the documents for the NC Tomorrow Comprehensive Economic Development Strategy. Motion unanimously approved.

Chairman Poteat advised there has been a request for a rearrangement of the agenda to allow the Closed Session at 3.6 be moved to 3.3A.

Motion by Phyllis Forbes and second by Martha Hicks to change the agenda relocating Closed Session to 3.3A and striking which was originally 3.3B and 3.3C. Motion unanimously approved.

Closed Session

Motion by Glenn Johnson and second by Phyllis Forbes to go into Closed Session at 4:06 p.m. regarding Attorney/Client Privilege G.S. 143-318.11 (a)(3). Invitees will be the Board, County Manager, Finance Officer, County Attorney and Clerk. Motion unanimously approved.

Chairman Poteat declared the meeting to be back in Regular Session after a time of Closed Session at 5:05 p.m. During closed session, no vote was taken.

Mr. Wiseman advised that the agenda would need to be rearranged again to address the issues discussed in closed session. These issues are the adoption of the amendment to the 160A agreement. The second issue is to appoint a member to the transition board which will be meeting on Wednesday. The third issue is to consider a budget amendment in the amount to be suggested by the Finance Officer so that New River can meet their payroll between now and the 14th of October.

Chairman Poteat stated that there would be a shift in the agenda of 3.4A3 up to 3.3B.

Motion by Phyllis Forbes and second by Martha Hicks to shift the agenda item 3.4A up to 3.3B. Motion unanimously approved.

Amendment to the Interlocal Agreement for the Provision of Behavioral Health Services

Motion by Glenn Johnson and second by Phyllis Forbes to amend the 160A Interlocal Agreement for the Provision of Behavioral Health Sciences as printed with minor “tweaking” contingent upon the other four counties involved Ashe, Alleghany, Watauga and Wilkes doing the same. Motion unanimously approved.

Transition Board—New River Service Authority

In accordance with the amendment, the stipulations necessitate one county commissioner from each 5 counties be appointed to the New River Service Authority Transition Board and the 5 county managers to be ex officio members.

Motion by Glenn Johnson and second by Scott Heath to appoint Kenny Poteat to the New River Service Authority Transition Board. Motion unanimously approved.

Budget Amendment – New River Behavioral Health

Motion by Phyllis Forbes and second by Martha Hicks to approve a budget amendment of up to \$90,000 to allow the “doors to remain open” to continue services to the fine people of Avery County through October 31, 2011 knowing the potential of more monies to be infused beyond that date to be allotted to Fund 10 Account # 5950.3420. Motion unanimously approved.

Abandonment of a Portion of Old Yonahlossee Road

Chairman Poteat stated that this is not the first time that this Board has addressed this issue but was petitioned several weeks ago and had ensuing discussions.

Kathryn Hemphill, Attorney, said she was representing all of the petitioners wanting the abandonment of a portion of the Old Yonahlossee Road. Ms. Hemphill advised that the petitioners and Catherine Morton worked up an agreement that was satisfactory with Ms. Morton and was recorded in the Avery County Courthouse so that this would be binding on all the parties. In particular, the agreement states that the Grandfather Mountain Highland Games have continued access to that road during the annual Highland Games. Linville Resorts would take care of all the maintenance for the road once it is closed including clearing the ditches in a timely manner for the Highland Games in order to ensure that the "roads are in the best possible shape for the vehicular and foot traffic as the results of the games. Furthermore, Linville Resorts will maintain the Old Yonahlossee Road including cleaning the ditches, preventing the buildup of debris, applying grading and gravel as needed and in other words meeting the upkeep of the road. Every single property owner who abuts this road or uses this road has signed this petition. The assessed tax base of the people that use this road is \$12,633,000 and that is taxes that are paid into the county in excess of \$48,000 by these five landowners. The standard that the Board of Commissioners would need to look at is that no individual owning property in the vicinity of the road or in any subdivision in which it was located would thereby be deprived reasonable means of ingress or egress to the road. The standard in closing the road would be to the detriment to the public but mainly to the detriment of the people owning property in the area. There must be some justification for the Board to at least call for the public hearing. This will not deprive one landowner who uses this road or uses it to the property even though they do not abut. I would ask that you vote for the public hearing so there would be an opportunity to be heard and the board would have an opportunity to look at a later date exactly what the standards are that is required of the Board in this type of decision.

Chairman Poteat stated that a lack of motion of any sort would result in the road remaining open. He said that Kathryn Hemphill made an excellent point of a public hearing. Chairman Poteat stated that he had received phone calls from 12 separate persons that were vehemently opposed to the road being closed.

Scott Heath said that he is absolutely against doing away with access but certainly the request is not unreasonable. The Highland Games issue has been addressed. The emergency issues have not been addressed.

Kathryn Hemphill said that she is speaking for the landowners and that she felt sure that the road would be accessible in any emergency situation; this road is going to be maintained.

Motion by Scott Heath to have a public hearing on the Old Yonahlossee Road to address leaving open or closing.

Michalle Poore, County Attorney, stated that she had spoken with the Department of Transportation and as a particular matter they are not going to close a road unless the Board of Commissioners approves it. The statute provides in order to get to the point of having a public hearing the Board of Commissioners does have to adopt a resolution which would indicate your intent to close the road and call for a public hearing and that is the first step in the process. After the public hearing, the Board would make a decision on whether or not the road would be closed.

Glenn Johnson said he is not sure at this point that it is his intent to close the road but did he have to declare his intent.

Ms. Poore advised that if the Board did not want to enter into that resolution the Board could have a public hearing and then determine an intent and have a second public hearing.

Second by Phyllis Forbes.

The Public Hearing will be scheduled for November 7, 2011.

Motion unanimously approved.

"Rock the Blue Ridge" Bike Ride- Lora Elder

Lora Elder stated that she was here asking for the support of the "Rock the Blue Ridge" Bike Ride coming in 2012. This is not a race; this is an organized bike ride. This requires good organization, great support and good signage. Officer Dallas Pate and Sheriff Kevin Frye did a great job with this last year. Lora Elder read the Resolution.

Motion by Scott Heath and second by Glenn Johnson to approve the Resolution regarding "Rock the Blue Ridge" Bike Ride as read. Motion unanimously approved.

Finance Officer Report – Tim Greene

Budget Amendment #

Avery County has received authorization from the NC Department of Crime Control & Public Safety to expend additional funds on the Crisis Housing Assistance Funds (CHAF) grant to make certain modifications to homes that were replaced due to Hurricanes Frances and Ivan. This is 100% money.

Motion by Phyllis Forbes and second by Martha Hicks to approve the Budget Amendment regarding the CHAF grant with a debit of \$30,000 to CHAF Grant (104100.7442) and a credit to CHAF GRANT (103356.0000) of \$30,000. Motion unanimously approved.

Budget Amendment #

The Department of Juvenile Justice & Delinquency Prevention has reduced the funding for the JCPC program. The programs will be reduced a total of \$2,044 which is made up of \$1,572 in state funding and \$472 in local funding.

Motion by Scott Heath and second by Martha Hicks to approve the Budget Amendment regarding the JCPC program with a debit of \$487.00 to Project Challenge (103480.0000); debit of \$252.00 to Juvenile-Adolescent Substance (103490.0000); debit of \$204.00 to Juvenile Serv-Landship; debit of \$503.00 to Juvenile Serv-Pass; debit of \$126.00 to Juvenile-Mediation; debit of \$472.00 to Fund Balance Appropriated (103990.0000) and a credit of \$265.00 to Juv Svs – Crossnore School; credit of \$654.00 to Juv Svs-Home Sch. Coord (107000.6130); credit of \$633.00 to CBA Juv Svc-Proj Challenge (107000.6145); credit of \$164.00 to Juvenile – Mediation Program (107000.6147); credit of \$328.00 to Adolescent Substance Abuse (107000.6148). Motion unanimously approved.

Budget Amendment #

Pursuant to Session Law 20101-158 Section 9, counties are allowed to spend 50% of the June 30, 2010 E911 fund balance on public safety needs.

Motion by Martha Hicks and second by Glenn Johnson to approve the budget amendment of \$305,843.00 with a debit of \$305,843.00 to Capital-Equipment (226600.7430) and a credit of \$305,843.00 to Fund Bal.—Appropriated (223990.0000). Motion unanimously approved.

County Attorney Report—Michalle Poore

No report.

Approval of Minutes

Motion by Glenn Johnson and second by Martha Hicks to approve the August 15, 2011 Regular Meeting Minutes and the September 6, 2011 Closed Session Minutes. Motion unanimously approved.

Agenda Consent Items

Adopted by consensus of the board.

Upcoming Meetings

Special Meeting on Monday, November 21, 2011 at 3:30 p.m. with the Fire Association.

Adjourn

Motion by Scott Heath and second by Martha Hicks to adjourn this meeting at 6:00 p.m. Motion unanimously approved.

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

ATTEST: _____
Cindy Turbyfill, Clerk

